

**LOCAL
GOVERNMENT LAW
AND
ADMINISTRATION**

ANNUAL CONTINUATION VOLUME, 1942

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THE ENGLISH AND EMPIRE DIGEST

In addition to the usual citation of the reports of cases in the footnotes, there will be found a reference to the volume, page, and case number at which the case appears in the Digest. Thus:

Bennett v. Stepney Borough Council (1912), 107 L.T. 383 ;
38 Digest 101, 730.

HALSBURY'S COMPLETE STATUTES OF ENGLAND

References to Public Acts of Parliament are followed by a reference to the volume and page at which the Act or section of the Act appears in Halsbury's Complete Statutes of England. Thus:

The Local Government Act, 1933; 26 Halsbury's Statutes
295.

ALL ENGLAND LAW REPORTS

After cases heard since February, 1936, references are given to this series of reports thus:

Camkin v. Bishop, [1941] 2 All E. R. 713.

PUBLISHERS' NOTE

THIS volume contains the relevant Statutes, Orders, Circulars and Memoranda, Cases and Decisions of the year 1942. The same classification of titles has been followed as in the first continuation volume (Vol. 15), the emergency legislation being dealt with under the various titles.

There were comparatively few statutes of importance affecting local authorities in 1942, but attention should be drawn to the War Damage (Amendment) Act, 1942 (p. 5, *post*) which affects compensation for buildings subject to the Housing Acts and for non-provided elementary schools; the Restoration of Pre-War Trade Practices Act, 1942 (p. 211, *post*) which by sect. 8 is applied to certain undertakings carried on by local authorities; and the Minister of Works Act, 1942 (p. 271, *post*) which provided for the transfer to a new Minister of the functions of the Commissioners of Work and of the Minister of Health in relation to town and country planning. As to the latter, reference should be made to the Minister of Town and Country Planning Act, 1943.

The Orders made under the emergency legislation are already extremely numerous, and their number increases *de die in diem*. Obviously it is impossible to publish them all, though the Editors are assured they have selected everything of general importance. The annotation is up to date to the 1st April, 1943, that is to say any changes or modifications of the law for 1942 up to that date have been noted, although, of course, the legislation itself for the year 1943 falls to be included in the next volume. It must not be assumed, however, that the annotation is up to date at the time of publication.

BUTTERWORTH & Co. (Publishers), LTD.

July, 1943.

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All England Reports	All E.R.
Attorney-General	A.-G.
Brothers	Bros.
Company	Co.
Corporation	Corp'n.
Home Office	..	..	..	..	..	..	H.O.
Justices	..	..	..	..	..	..	JJ.
Limited	..	..	..	..	..	..	Ltd.
London County Council	..	..	..	..	..	..	L.C.C.
Local Government Act	..	..	..	..	..	..	L.G.A.
Medical Officer of Health	..	..	..	..	..	..	M.O.H.
Ministry of Agriculture and Fisheries	..	..	..	..	..	..	M. of A.
Ministry of Health	..	..	..	..	..	..	M. of H.
Ministry of Transport	..	..	..	..	..	..	M. of T.
Public Health Acts	..	..	..	..	..	..	P.H.A.
Railway Company	..	..	..	..	..	..	Rail. Co.
Rating and Valuation Act	..	..	..	..	..	..	R. & V.A.
Rural District Council	R.D.C.
Statutory Rules and Orders	S. R. & O.
Urban District Council	U.D.C.

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ACT OF PARLIAMENT

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1942	-	-	-	-	1	Order in Council continuing in force					
						the Emergency Powers (Defence)					
						Act, 1939					2

STATUTES

THE EXPIRING LAWS CONTINUANCE ACT, 1942

(6 & 7 Geo. 6, c. 1)

An Act to continue certain expiring laws. [1]

[17th December, 1942.]

Whereas the Acts mentioned in the Schedule to this Act are, in so far as they are in force and are temporary in their duration, limited to expire—

(a) as respects those mentioned in Part I of the said Schedule, on the thirty-first day of December nineteen hundred and forty-two, and

(b) as respects that mentioned in Part II of the said Schedule on the thirty-first day of March nineteen hundred and forty-three :

And whereas it is expedient to provide for the continuance, as in this Act mentioned, of those Acts and of the enactments amending or affecting the same :

Be it therefore enacted, etc. [2]

1. Continuance of Acts in Schedule.—(1) The Acts mentioned in Part I of the Schedule to this Act shall, to the extent specified in column three of that Part of that Schedule, be continued until the thirty-first day of December nineteen hundred and forty-three.

(2) The Act mentioned in Part II of the Schedule to this Act shall, to the extent specified in column three of that Part of that Schedule, be continued until the thirty-first day of March nineteen hundred and forty-four.

(3) Any unrepealed enactments which are temporary in their duration shall, in so far as they amend or affect any enactment continued by the foregoing provisions of this Act, be continued in like manner as that enactment whether they are mentioned in the Schedule to this Act or not. [3]

2. Short title and application to Northern Ireland.—(1) This Act may be cited as the Expiring Laws Continuance Act, 1942.

(2) This Act shall apply to Northern Ireland in so far as it deals with any enactment relating to a subject with respect to which the Parliament of Northern Ireland has not power to make laws, but, save as hereinbefore provided, shall not apply to Northern Ireland. [4]

SCHEDULE

Section 1.

PART I

1.	2.	3.	4.
Session and Chapter.	Short title.	How far continued.	Amending Acts.
* *	* *	* *	* *
(6) 20 & 21 Geo. 5, c. 50.	The Public Works Facilities Act, 1930.	The following provisions, that is to say, section two, except the words "or statutory undertakers", wherever those words occur; in section three, the words from the beginning of the section to the word "undertaking"; section five; subsections (1) and (2) of section six; sections seven and eight; and the First Schedule except paragraph 2 of Part I.	—
* *	* *	* *	* *
(9) 24 & 25 Geo. 5, c. 50.	The Road Traffic Act, 1934.	Section one . . .	1 Edw. 8 & 1 Geo. 6, c. 5.
* *	* *	* *	* *

[5]

For the Public Works Facilities Act, 1930, see 23 Statutes 769; Road Traffic Act, 1934, s. 1, see 27 Statutes 535.

As to the Public Works Facilities Act, 1930, note that s. 1, part of s. 3, and 2nd Schedule lapsed in 1935; see the Expiring Laws Continuance Act, 1935 (28 Statutes 349, 350).

ORDERS, CIRCULARS AND MEMORANDA

ORDER IN COUNCIL CONTINUING IN FORCE THE
EMERGENCY POWERS (DEFENCE) ACT, 1939, AS
AMENDED

S. R. & O., 1942, No. 1542

August 6, 1942

* * * * *

Whereas by subsection (1) of section eleven of the Emergency Powers (Defence) Act, 1939, as amended by subsection (3) of section one of the Emergency Powers (Defence) Act, 1940, the first mentioned Act was limited to expire at the end of a period of two years beginning with the twenty-fourth day of August nineteen hundred and thirty-nine unless continued in force in accordance with the said subsection (1):

And whereas by an Order in Council made in pursuance of the said subsection (1), the Emergency Powers (Defence) Act, 1939, as amended by any subsequent enactment was continued in force for the further period of one year beginning with the twenty-fourth day of August, nineteen hundred and forty-one :

And whereas an Address has been presented to His Majesty by each House of Parliament in pursuance of the said subsection (1) praying that the Emergency Powers (Defence) Act, 1939, as amended by any subsequent enactment be continued in force for a further period of one year beginning with the twenty-fourth day of August nineteen hundred and forty-two :

Now therefore His Majesty in pursuance of the Emergency Powers (Defence) Acts 1939 and 1940, and of all other powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered that the Emergency Powers (Defence) Act, 1939, as amended by any subsequent enactment shall continue in force for the further period of one year beginning with the twenty-fourth day of August nineteen hundred and forty-two. [6]

ACTIONS BY AND AGAINST LOCAL AUTHORITIES

CASES :—	PAGE	PAGE
Mottram v. South Lancashire Transport Co., [1942] 2 All E. R. 452, C. A. — — — — —	3	Radley v. London Passenger Transport Board, [1942] 1 All E. R. 433 4 Simon v. Islington Borough Council, [1942] 2 All E. R. 490 — — 4

CASES

Carriers—Carriage of persons—Alighting from vehicle—Signal for bus to proceed already given by passenger—Conductress not on platform.

The respondent was a passenger on one of the appellants' trolley buses. She was following another passenger off the bus at a request stop at the time when the conductress was collecting fares on the upper deck of the bus. The other passenger rang the bell once and the bus slowed down, but just as he was getting off, thinking he was acting in the interest of everyone, he rang the bell twice as a signal for the bus to proceed. The respondent proceeded to alight after him, but, the bus picking up speed at that moment, she was thrown to the ground and injured. In an action for damages for such injuries, it was contended that the conductress was negligent in not coming to the platform as soon as she heard the bell ring once, so that she might supervise the restarting of the bus :—

Held : there was no negligence on the part of the conductress and the appellants were under no liability to the respondent.—*MOTTRAM v. SOUTH LANCASHIRE TRANSPORT CO.*, [1942] 2 All E. R. 452 ; 86 Sol. Jo. 321, C. A. [7]

Negligence—Public vehicle—Omnibus brushing overhanging branch—Injury through breaking of window—Presumption of negligence—Duty to avoid obstructions above the level of the road.

The infant plaintiff was a passenger on the top of an omnibus belonging to the defendants. While the omnibus was proceeding along a country road, its upper part brushed against the branches of a tree overhanging the road, and some of the windows were broken. A splinter of glass penetrated the infant plaintiff's eye and necessitated its removal. The accident occurred at

to the effect that omnibuses passing along the road in question frequently brushed against overhanging trees. The defendants called no evidence to explain the cause of the accident :—

Held : the facts established a *prima facie* case of negligence against the defendants. It was the duty of the driver of the omnibus to keep a look-out for obstructions, whether on or above the level of the road, and, in the absence of evidence to the contrary, it was to be assumed that he had failed to perform that duty.—*RADLEY v. LONDON PASSENGER TRANSPORT BOARD*, [1942] 1 All E. R. 433 ; 166 L. T. 285 ; 106 J. P. 164 ; 58 T. L. R. 364 ; 86 Sol. Jo. 147 ; 50 L. G. R. 144. [8]

Tramways—Repair of road—Tramway abandoned by London Passenger Transport Board—Notice by highway authority of intention to remove tramway equipment—Fatal accident—Liability of highway authority for non-feasance—Tramways Act, 1870 (c. 78), ss. 25, 28—London Passenger Transport Act, 1933 (c. 14), s. 23 (2), (5), (7).

The London Passenger Transport Board operated a tramway within the area of the defendant local authority. In 1938 the Board abandoned the tramway and substituted a system of trolley buses. The local authority as the highway authority gave notice under the London Passenger Transport Act, 1933, s. 23 (5), of their intention to take up, remove and dispose of the tramway equipment and to make good the surface of the road. On April 2, 1941, a fatal accident was caused by the want of repair of the tramway track and this action was brought to recover damages in respect of that accident. The local authority admitted that they were responsible for the maintenance of the track at the time of the accident but they contended that they were responsible only as a highway authority and, therefore, were not liable for non-feasance :—

Held : (1) after the service of the notice under the London Passenger Transport Act, 1933, s. 23 (5), the local authority was solely responsible for the maintenance of the tramway track ;

(2) the local authority were responsible for such maintenance as a highway authority and not as a tramway authority and were, therefore, not responsible for non-feasance. Since any want of repair in this case was due to the fact that no repairs had been undertaken, this was a case of non-feasance and the local authority was under no liability.—*SIMON v. ISLINGTON BOROUGH COUNCIL*, [1942] 2 All E. R. 490 ; 167 L. T. 131 ; 106 J. P. 212 ; 58 T. L. R. 331 ; 86 Sol. Jo. 313 ; 40 L. G. R. 245. [9]

ACCIDENTS

See ACTIONS BY AND AGAINST LOCAL AUTHORITIES.

AIR-RAID PRECAUTIONS

See, also, FIRE PROTECTION ; HIGHWAYS ; RATES AND RATING.

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Civil Defence (Employment and Offences) Order, 1942	14	Air-raid Precautions (Storage and Loan of Equipment) (Amending) Regulations, 1942	21
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STATUTES

THE WAR DAMAGE (AMENDMENT) ACT, 1942

(5 & 6 Geo. 6, c. 28)

PRELIMINARY NOTE

This Act deals firstly with the definition of "risk period" for the purposes of the War Damage Act, 1941 (which is referred to as "the principal Act"). The second risk period, created by the War Damage (Extension of Risk Period) Act, 1941 (34 Statutes 542), was due to expire on August 31, 1942.

This Act provides for one continuous risk period from the beginning of the war until terminated by an Order made by the Treasury and approved by the House of Commons.

No further instalments of contributions are imposed, and none can be imposed without further action by Parliament.

In addition to dealing with this question of the risk period, this Act contains a large number of amendments of the principal Act which the working of that Act has shown to be necessary or desirable.

These are grouped in four schedules. The First Schedule contains the general amendments relating to Part I of the principal Act. The Second Schedule contains amendments relating to indemnities in respect of war damage contribution, both as between mortgagors and mortgagees and as between landlords and tenants. The Third Schedule contains amendments relating to Part II of the principal Act, *i.e.* to the provisions relating to war damage to goods. The Fourth Schedule contains a number of amendments which are consequential to the amendments contained in the first three schedules. [10] [6th August, 1942]

* * * *

SCHED. I.

* * * *

14. *Suspension or remission of instalments in respect of properties affected under Housing Acts by clearance or compulsory purchase, or demolition, orders.*

(1) Where as respects the year nineteen hundred and forty-two or any subsequent year the Commissioners of Inland Revenue are satisfied that the following conditions are fulfilled in the case of any contributory property which consists of a house or building and the site thereof, that is to say,—

(a) that at the beginning of that year the house or building was subject to a clearance order made under the Housing Act, 1936, which had been confirmed by the Minister of Health, to a compulsory purchase order made under that Act relating to land comprised in a clearance area, or made in accordance with subsection (3) of section thirty-six of that Act, which had been so confirmed, or to a demolition order made under that Act which had become operative; and

(b) that the house or building has not been occupied in whole or in part at any time during that year,

the Commissioners of Inland Revenue shall take no steps to recover any instalment of contribution falling due in respect of the property for that year unless and until they are satisfied that the condition specified in head (b) of this sub-paragraph has ceased to be fulfilled or that the order has been quashed.

(2) Any reference in this paragraph to a house or building includes a reference to any yard, garden, outhouses and appurtenances belonging thereto or usually enjoyed therewith; and the reference in head (a) of the last preceding sub-paragraph to a house or building subject to a compulsory purchase order confirmed by the Minister of Health includes a reference to a house or building belonging to a local authority to which by virtue of section twenty-eight of the Housing Act, 1936, the provisions of that Act apply as if it had been purchased by the authority as being land comprised in a clearance area.

(3) In the application of this paragraph to Scotland, for the references to the Housing Act, 1936, and to orders confirmed by the Minister of Health there shall be respectively substituted references to the Housing (Scotland) Act, 1930, and to orders confirmed by the Secretary of State:

Provided that for references to section twenty-eight and to subsection (3) or section thirty-six of the first mentioned Act there shall be respectively substituted references to section sixty-one and subsection (2) of section seventeen of the Housing (Scotland) Act, 1935.

(4) In the application of this paragraph to Northern Ireland, for the references to the Housing Act, 1936, and the Minister of Health there shall be substituted respectively references to Part II of the Planning and Housing Act (Northern Ireland), 1931, and to the Ministry of Home Affairs for Northern Ireland, and the references to a compulsory purchase order shall not apply. [11]

This amendment deals with contributions in respect of properties which are subject to certain Orders made under the Housing Act, 1936. For that Act, see 29 Statutes 565.

The amendment provides for suspension of the war damage contribution in respect of property which is subject to such an order and which is not occupied at any time during a year. In respect of any year in which it is occupied the war damage contribution is to be paid in the ordinary way notwithstanding the existence of one of these orders.

The amendment applies to three sorts of order:—

(i) A clearance order, confirmed by the Minister of Health. See s. 26 of the Housing Act, 1936 (29 Statutes 585).

(ii) A compulsory purchase order, confirmed by the Minister of Health. This may be made under s. 29 of the Housing Act, 1936 (*ibid.*, 588), in connection with a clearance area, or under s. 36 (3) of that Act (*ibid.*, 594) in connection with a redevelopment plan. The amendment also applies to a house or building belonging to a local authority which is dealt with under s. 28 of the Housing Act, 1936 (*ibid.*, 587).

(iii) A demolition order which has become operative. See s. 11 of the Housing Act, 1936 (*ibid.*, 574).

By sub-para. (2), any yard, garden, outhouses and appurtenances belonging to or usually enjoyed with a house or building subject to such an order, is included with the house or building.

* * * * *

21. *Application of principal Act to elementary schools transferred to local education authority.*

(1) Where an elementary school has been transferred to the local education authority for elementary education under section thirty-eight of the Education Act, 1921, or under section twenty-three of the Elementary Education Act, 1870, and section twenty-five of and the Second Schedule to the Education Act, 1902, or the authority has an interest in the premises of such a school under a lease granted whether by virtue of a scheme made under the Charitable Trusts Acts, 1853 to 1925, or otherwise, the Board of Education may, with the consent of the authority and of the trustees of the school, by order made as respects the whole or any part of the premises of the school direct that the provisions of the principal Act relating to the recovery and ultimate incidence of instalments of contributions and to payments in respect of war damage under Part I thereof, shall apply as if the premises of the school, or the part thereof to which the order relates, as the case may be, were vested in the authority for all the interest therein belonging to the trustees or otherwise held in trust for the school.

(2) In relation to a case where the transfer or lease affects part only of the premises of the school, sub-paragraph (1) of this paragraph shall apply as if the references to the premises of the school were references to that part of the premises.

(3) An order made under sub-paragraph (1) of this paragraph may, with the consent of the authority and of the trustees, be revoked by an order of the Board of

Education either as respects the whole or as respects any part of the land affected by the order revoked ; and an order under the said sub-paragraph (1) shall cease to have effect on the termination of the rights of the authority under the transfer or the interest of the authority under the lease :

Provided that the revocation of the order, whether in whole or in part, or its ceasing to have effect, shall not affect any liability in respect of an instalment of contribution for a year the relevant date in which fell before the time when the order was revoked or ceased to have effect, or any right to payment in respect of war damage occurring before that time.

(4) An order made under sub-paragraph (1) of this paragraph shall apply as well in relation to an instalment of contribution for a year the relevant date in which fell between the transfer, or the commencement of the interest of the authority, as the case may be, and the date of the making of the order but not discharged at that date as in relation to an instalment of contribution for a year the relevant date in which falls after that date.

(5) An order made under this paragraph shall, unless the contrary is shown, be presumed to have been made with the consent of the authority and trustees concerned.

(6) In this paragraph the expression " premises ", in relation to a school, has the same meaning as in the Fourth Schedule to the Education Act, 1921 ; and where successive interests are granted to an authority without any interval between the termination of one and the commencement of the next, the successive interests shall be treated for the purposes of this paragraph as one interest commencing at the commencement of the earliest interest.

(7) (Application to Northern Ireland.) [12]

By s. 38 of the Education Act, 1921 (7 Statutes 151), and corresponding sections, since repealed, of earlier Education Acts, the managers of non-provided elementary schools were authorised to make arrangements with the local education authority for transferring the school to the authority, subject to certain consents. Such a " transfer " may take the form of an absolute conveyance, or of a lease for a term, either at a nominal rent or otherwise, or simply of the grant of the right of user during part of the week. Re-transfer may occur on repayment to the local education authority of money expended on the school by that authority out of the produce of a loan.

The provisions of the principal Act as to the payment and ultimate incidence of instalments of contribution have, in such cases, an effect varying with the form of the transfer, and accordingly managers may have no contributory interest, may be direct contributors with a right of partial indemnity from the local education authority, or may have the sole contributory interest and be liable for the whole of the contribution. The amendment is designed to correct these anomalies and to enable the Board of Education, with certain consents, to direct, in effect, that the instalments of contribution shall be payable by the local education authority.

* * * * *

ORDERS, CIRCULARS AND MEMORANDA

ORDER IN COUNCIL AMENDING REGULATION . . . 29BA ... OF ... AND ADDING REGULATION 84B TO ... THE DEFENCE (GENERAL) REGULATIONS, 1939

S. R. & O., 1942, No. 92

January 22, 1942

* * * * *

- 3.—(1) At the beginning of paragraph (2) of Regulation twenty-nine BA of the principal Regulations, there shall be inserted the words " Any direction given under paragraph (1) of this Regulation may be withdrawn by the Minister of Labour and National Service or any National Service Officer, but without prejudice to the power to give a further direction ; and ".
- (2) At the end of the said Regulation twenty-nine BA there shall be inserted the following paragraph :—

“(4) Paragraph (4) of Regulation fifty-eight A of these Regulations and any order made thereunder, whether before or after the coming into force of this paragraph, shall have effect as if the reference in the said paragraph (4) to the foregoing provisions of that Regulation included a reference to this Regulation.” [13]

* * * * *

10. After Regulation 84A of the principal Regulations there shall be inserted the following Regulation—

84B.—(1) The Common Council of the City of London may appoint a committee consisting of so many of their members as they think fit, for the purposes of the functions conferred or imposed on the Common Council by or under the Civil Defence Acts, 1937 and 1939, or these Regulations, and may delegate to a committee so appointed any of the said functions except any power of borrowing money.

(2) Subsections (1) and (2) of section sixty-eight, and section sixty-nine, of the London Government Act, 1939, shall have effect in relation to any committee appointed, and the matters to be referred and the functions to be delegated thereto, by the Common Council under this Regulation, as they have effect in relation to committees appointed, and matters to be referred and functions to be delegated thereto, by local authorities under that Act.

(3) Nothing in this Regulation shall affect any directions or instructions given to the Common Council under these Regulations in relation to the said functions.” [14]

* * * * *

ORDER IN COUNCIL AMENDING . . . THE THIRD SCHEDULE TO THE DEFENCE (GENERAL) REGULA- TIONS, 1939

S. R. & O., 1942, No. 224

February 9, 1942

* * * * *

3. In the Third Schedule to the said Regulations, the words in the entry relating to Regulation twenty-nine BA “ or in Northern Ireland the Ministry of Labour for Northern Ireland ” and “ or Ministry, as the case may be ” shall be omitted. [15]

* * * * *

ORDER IN COUNCIL AMENDING REGULATION . . . 29B . . . OF THE . . . DEFENCE (GENERAL) REGULATIONS, 1939

S. R. & O., 1942, No. 801

April 30, 1942

* * * * *

3.—(1) In paragraph (1) of Regulation twenty-nine B of the principal Regulations sub-paragraph (d) shall be renumbered as sub-paragraph (e), and after sub-paragraph (c) there shall be inserted the following sub-paragraph :—

“(d) for requiring any person whose services are so dispensed with, being a person employed whole-time as a constable or a person in the service of a local authority or a harbour authority employed whole-time in any capacity to which this Regulation applies—

- (i) if he was employed as a constable, to become a special constable for the police district in which he was so employed;
 - (ii) if he was in the service of a local authority or a harbour authority, to take up part-time employment in the same or any other capacity to which this Regulation applies in the service of that authority.”
- (2) In paragraph (1c) of the said Regulation after the word “employed”, where that word occurs for the second time, there shall be inserted the words “either (a)”, and after the words “mitigating the effects of enemy action” there shall be inserted the words—

“or

(b) on any other work for any government department or connected with the performance of their functions by any local authority or harbour authority or with the performance by any undertakers of essential services”.

(3) At the end of the said paragraph (1c) there shall be added the following sentence—

“In this paragraph the expression ‘undertakers’ means the persons carrying on any public utility undertaking or any undertaking by way of any trade or business.” [16]

* * * * *

ORDER IN COUNCIL AMENDING REGULATIONS 26A, 27A, 29B OF THE DEFENCE (GENERAL) REGULATIONS, 1939

S. R. & O., 1942, No. 1131

June 11, 1942

* * * * *

7. In paragraph (5) of Regulation twenty-nine B of the Defence (General) Regulations, 1939, in sub-paragraph (b) the word “and” (where it last occurs) shall be omitted, and at the end of that paragraph there shall be added the following sub-paragraph:—

“(d) in sub-paragraph (a) of paragraph (1) and in paragraph (1A) after the words ‘civil defence reserve’ there shall be inserted in each case the words ‘or as members of the National Fire Service (Northern Ireland)’, and the references in the said paragraphs (1) and (1A) to the appropriate authority shall, in relation to members of the said Service, be construed as references to the Ministry of Public Security for Northern Ireland”. [17]

* * * * *

10.—(1) Any directions, certificate, notice, approval, disapproval, requirement, authority, arrangements or thing given, made or done by a deputy Regional Commissioner in the purported exercise of functions under Regulation twenty-six A or Regulation twenty-seven A of the Defence (General) Regulations, 1939, at a time when those functions were exercisable by a Regional Commissioner but not by a deputy Regional Commissioner, shall, if not revoked or withdrawn before the date of the making of this Order, have effect, as from that date, as if given, made or done by a Regional Commissioner.

(2) Where any such direction has been given purporting to apply an order under the said Regulation twenty-six A to any area, and in consequence thereof a notice has been published by the local authority for that area requiring persons to be registered under the order—

- (a) any person who has complied with that notice shall, as from the date of the making of this Order, be deemed to be duly registered under the said order ;
- (b) any such person upon whom a notice stating that he has been enrolled for the performance of fire prevention duties in that area or any part thereof has been served shall, as from the said date, be deemed to be duly so enrolled in accordance with the notice ;
- (c) any exemption from enrolment under the said order, or release from duties required by virtue of such enrolment, granted to any such person shall, as from the said date, be deemed to be valid.

(3) Where any such direction as aforesaid purporting to apply an order made under the said Regulation twenty-seven A to any area or to any premises has been given, any arrangements for fire prevention made or approved in consequence of any such direction, any exemption granted from duties under any such arrangements, anything done in relation to any such arrangements or to the making or approval thereof, and any delegation of functions or agreement as to the exercise thereof under the said order in relation to that area or those premises, shall, if not revoked or withdrawn before the date of the making of this Order, have effect, as from that date, as if the said order had applied to that area or to those premises at all material times. [18]

* * * * *

ORDER IN COUNCIL ADDING REGULATION 29BB TO THE DEFENCE (GENERAL) REGULATIONS, 1939

S. R. & O., 1942, No. 1544

August 6, 1942

His Majesty, in pursuance of the Emergency Powers (Defence) Acts, 1939 and 1940, and of all other powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, that after Regulation twenty-nine BA of the Defence (General) Regulations, 1939, there shall be inserted the following Regulation :—

“ 29BB.—(1) Subject to the provisions of this Regulation, a Secretary of State may by order make provision for requiring any class or description of British subjects in any foreign country specified in the order to perform, in accordance with arrangements made on behalf of His Majesty, including arrangements made with any authority or person in that country, such duties in connection with civil defence services as may be prescribed by or under the order.

(2) No person shall be liable by virtue of any such order to perform any duties who has not attained the age of sixteen years or has attained the age of sixty years ; and no person shall be so liable to perform duties outside his working hours amounting in the aggregate to more than forty-eight hours in any period of four weeks.

(3) Any order made under this Regulation with respect to persons in any country shall make provision for the manner in which any obligation thereby imposed, or any privilege or right exercisable in relation to any such obliga-

tion, is to be performed or exercised, and shall make provision for the exemption from liability to perform duties thereunder of—

- (a) duly qualified medical practitioners ;
- (b) persons ordinarily engaged wholtime in nursing the sick, and midwives ordinarily engaged wholtime in the practice of midwifery, so long as such persons are so engaged ;
- (c) women having living with them children (whether their own or not) under the age of fourteen, so far as may be necessary for the care of such children while actually in their charge ;
- (d) women certified to be pregnant, during the period of pregnancy and for six weeks thereafter ;

and any such order shall also provide for enabling any person to make application for exemption from liability to perform duties thereunder on medical grounds or on grounds of exceptional hardship.

(4) Any order made under this Regulation may make provision for any incidental and supplementary matters for which the Secretary of State thinks it expedient to provide, and may in particular provide—

- (a) for the registration and medical examination of persons liable to perform duties under the order ;
- (b) for the compulsory enrolment of such persons for the performance of civil defence duties under the order ;
- (c) for exempting from all or any of the requirements of the order such persons or classes of persons as may be prescribed by or under the order.

(5) Every person called upon under any such order to perform any duties shall comply with such directions defining his duties, or specifying the time, place or manner of their performance, as may, in accordance with the order, be given to him by any authority or person specified in that behalf in the order.

(6) Any liability to perform duties under an order under this Regulation may be made conditional upon the payment by persons for whose benefit those duties are performed of travelling expenses and subsistence allowances, and may be made conditional upon the provision by such persons of proper and adequate sleeping accommodation, bedding, sanitary conveniences and facilities for washing ; but subject as aforesaid no person shall be entitled to any remuneration in respect of any duties which he is required to perform by virtue of an order under this Regulation.

(7) The Secretary of State may, to such extent and subject to such restrictions as he thinks proper, delegate to any representative of His Majesty in any foreign country his power under this Regulation to make orders as respects British subjects in that country ; and any order made under this Regulation may provide for the delegation of any powers exercisable thereunder.

(8) In this Regulation the following expressions have the meanings hereby respectively assigned to them, that is to say :—

- ‘ certified ’ means certified by a duly qualified medical practitioner ;
- ‘ civil defence services ’ means fire prevention, first aid and any other civilian services, being services required for the purpose of forestalling or mitigating attacks by the enemy ;
- ‘ duties ’ includes any instruction or training in any civil defence service ;
- ‘ midwife ’ means a person certified under the Midwives Acts, 1902 to 1936, or the Midwives (Scotland) Acts, 1915 and 1927 ;
- ‘ period of four weeks ’, in relation to any order under this Regulation, means a period of four weeks beginning with the date of the order or

with any date exactly four weeks, or an exact multiple of four weeks, after that date.

(9) This Regulation shall apply in relation to British protected persons as it applies in relation to British subjects." [19]

* * * * *

ORDER IN COUNCIL AMENDING REGULATIONS . . . 26A, 29B . . . 60DA . . . OF THE DEFENCE (GENERAL) REGULATIONS, 1939

S. R. & O., 1942, No. 1881

September 17, 1942

3.—(1) In sub-paragraph (b) of paragraph (1) of Regulation twenty-six A of the principal Regulations the words "at the date of a notice published under the order" and the words "at the date of such a notice" shall be omitted.

(2) . . .

4. For the proviso to paragraph (1c) of Regulation twenty-nine B of the principal Regulations there shall be substituted the following proviso :—

"Provided that a person employed without remuneration shall not be employed on any such work as is mentioned in this paragraph without his consent." [20]

* * * * *

10. In paragraph (6) of Regulation sixty DA of the principal Regulations for the words "National Health Insurance Act, 1936", there shall be substituted the words "National Health Insurance Acts, 1936 to 1941", and for the words "Workmen's Compensation Acts, 1925 to 1940", there shall be substituted the words "Workmen's Compensation Acts, 1925 to 1941". [21]

* * * * *

THE CIVIL DEFENCE REGIONS ORDER, 1942

S. R. & O., 1942, No. 17

January 6, 1942

I, in pursuance of the power conferred upon me by paragraph (1) of Regulation 99A of the Defence (General) Regulations, 1939, by this Order direct as follows :—

1. For the purpose of the Defence (General) Regulations, 1939, and any instrument having effect thereunder, each of the areas in Great Britain described in the first column of the Schedule to this Order shall be a civil defence region and shall be called by the name specified in the second column of the said Schedule opposite thereto. [22]

2. This Order may be cited as the Civil Defence Regions Order, 1942. [23]

* * * * *

SCHEDULE

Area of Civil Defence Region.	Name of Civil Defence Region.
Durham, Northumberland, and the North Riding of Yorkshire.	The Northern Civil Defence Region.
The East Riding and the West Riding of Yorkshire; and the city of York.	The North Eastern Civil Defence Region.
Derbyshire, Leicestershire, Lincolnshire, Northamptonshire (including the Soke of Peterborough), Nottinghamshire, Rutland.	The North Midland Civil Defence Region.
Bedfordshire, Cambridgeshire (including the Isle of Ely), Essex (except such parts as are within the London Civil Defence Region), Hertfordshire (except such parts as are within the London Civil Defence Region), Huntingdonshire, Norfolk, and Suffolk.	The Eastern Civil Defence Region.
The administrative counties of London and Middlesex, so much of Essex as consists of the boroughs of Barking, Chingford, Dagenham, East Ham, Ilford, Leyton, Walthamstow, Wanstead and Woodford, and West Ham; and the urban districts of Chigwell, and Waltham Holy Cross, so much of Hertfordshire as consists of the urban districts of Barnet, Bushey, Cheshunt, and East Barnet; and the rural district of Barnet, so much of Kent as consists of the boroughs of Beckenham, Bexley, Bromley, and Erith; and the urban districts of Chislehurst and Sidcup, Crayford, Orpington, and Penge, and so much of Surrey as consists of the boroughs of Barnes, Beddington and Wallington, Croydon, Epsom and Ewell, Kingston-upon-Thames, Malden and Coombe, Mitcham, Richmond, Surbiton, Sutton and Cheam, and Wimbledon; and the urban districts of Banstead, Carshalton, Coulsdon and Purley, Esher, and Merton and Morden.	The London Civil Defence Region.
Kent (except such parts as are within the London Civil Defence Region), Surrey (except such parts as are within the London Civil Defence Region), and Sussex.	The South Eastern Civil Defence Region.
Berkshire, Buckinghamshire, Dorset, Hampshire (including the Isle of Wight), and Oxfordshire.	The Southern Civil Defence Region.
Cornwall (including the Isles of Scilly), Devon, Gloucestershire, Somerset and Wiltshire.	The South Western Civil Defence Region.
Herefordshire, Shropshire, Staffordshire, Warwickshire, and Worcestershire.	The Midland Civil Defence Region.

Area of Civil Defence Region.	Name of Civil Defence Region.
Cheshire, Cumberland, Lancashire, and Westmorland. Anglesey, Brecknockshire, Caernarvonshire, Cardiganshire, Carmarthenshire, Denbighshire, Flintshire, Glamorganshire, Merionethshire, Monmouthshire, Montgomeryshire, Pembrokeshire, and Radnorshire.	The North Western Civil Defence Region. The Wales Civil Defence Region.
The whole of Scotland	
	The Scottish Civil Defence Region. [24]

THE CIVIL DEFENCE (EMPLOYMENT AND OFFENCES) ORDER, 1942

S. R. & O., 1942, No. 89

January 20, 1942

In pursuance of the powers conferred on me by Regulations 29B and 38 of the Defence (General) Regulations, 1939, I hereby order as follows :—

1. Subject as hereinafter provided, any person who is on or after the date of this Order employed as a member of the civil defence reserve is required to continue in his employment until his services are dispensed with, or he is transferred, in accordance with the provisions of this Order. [25]

2. The services of any person employed as aforesaid may be dispensed with by a Regional Commissioner. [26]

3.—(1) Where the services of any person employed as aforesaid are dispensed with in accordance with the foregoing provisions of this Order, that person shall, on being served with a notice of recall issued under this Article, be required to return to employment as a member of the civil defence reserve or in the service of a local authority in any capacity to which Regulation 29B of the Defence (General) Regulations, 1939, applies.

(2) Any such notice of recall as aforesaid shall be issued by a Regional Commissioner.

(3) Any such notice of recall as aforesaid shall be in writing and shall specify the person to whom and the time and place at which the person recalled shall report for duty, and his employment in pursuance of the notice shall, for the purposes of the said Regulation 29B and any Orders made thereunder, be deemed to commence accordingly.

(4) Any person liable to be served with a notice of recall as aforesaid shall notify forthwith his address on leaving his employment as a member of the civil defence reserve and any change of address to the Regional Commissioner for the time being acting for the civil defence region in which he was serving when his services were dispensed with, unless he is granted by a Regional Commissioner exemption in writing.

(5) Any such notice of recall as aforesaid may, without prejudice to any other manner of service, be served by being delivered or sent by post to the person recalled at the last address notified by him under the last foregoing

4. Subject as hereinafter provided, paragraph (1A) of the said Regulation 29B (which paragraph relates to disobedience to lawful orders and absence from duty) shall apply to any person employed as a member of the civil defence reserve. [28]

5.—(1) Subject as hereinafter provided, any person employed as a member of the civil defence reserve shall be liable, on being served with a notice issued by a Regional Commissioner, to be transferred to employment in the service of a local authority in any capacity to which the said Regulation 29B applies.

(2) Subject as hereinafter provided, any person in the service of a local authority and employed in any of the following capacities, that is to say, in the capacity of an air raid warden or a member of a rescue service, first-aid party service, stretcher party service or civil defence messenger service or in any capacity in which persons are employed at report or control centres shall be liable on being served with a notice issued—

- (i) by the local authority to be transferred to employment in any capacity to which the said Regulation 29B applies in the service of the authority in any part of the area of the authority, provided that the transfer will not involve his living away from home;
- (ii) by a Regional Commissioner to be transferred to employment as a member of the civil defence reserve; or
- (iii) by a Regional Commissioner to be transferred to employment in any capacity to which the said Regulation 29B applies in the service of the authority or another local authority.

(3) Any notice issued under this Article shall be in writing and shall specify the person to whom and the time and place at which the person transferred shall report for duty, and, unless the notice is cancelled by a Regional Commissioner or, in the case of a notice issued by a local authority, by that local authority or unless the notice is suspended by virtue of paragraph (1) of Article 6 of this Order, the transfer shall take effect accordingly.

(4) A transfer under this Article may be for an indefinite period or for a period limited by the notice. [29]

6.—(1) Where a person in the service of a local authority is served with a notice under the last foregoing Article and the transfer will involve his living away from home, he may, within four days of the service of the notice upon him, request in writing on the ground of special hardship the Regional Commissioner by whom the notice was issued to submit the matter to a Local Appeal Board constituted in accordance with the Essential Work (General Provisions) Orders, 1941, and thereupon the notice shall be suspended.

(2) Where such a request is made, a Regional Commissioner shall forthwith submit the matter to the Board and the Board shall, so far as practicable within seven days of the matter being submitted to it, make such recommendation as the Board thinks fit.

(3) A Regional Commissioner after considering the recommendation of the Board shall determine the matter and may confirm or cancel the notice or substitute another notice. [30]

7. In Article 1 of the Civil Defence (Employment and Offences) Order, 1941, for the words "or stretcher party service" there shall be substituted the words "stretcher party service or civil defence messenger service", and that Order and the Civil Defence (Employment and Offences) (No. 5) Order, 1941, shall have effect accordingly. [31]

8. This Order shall not apply to a person who is employed as aforesaid without remuneration or to a person who is not continuously employed as aforesaid whole-time. [32]

9. In the application of this Order to Scotland references to "Regional Commissioner" shall include references to the "District Commissioner".
[33]

10. This Order may be cited as the Civil Defence (Employment and Offences) Order, 1942. [34]

* * * *

THE CIVIL DEFENCE (EMPLOYMENT AND OFFENCES) (NO. 2) ORDER, 1942

S. R. & O., 1942, No. 122

January 22, 1942

103318.

The Minister of Health, in pursuance of the powers conferred on him by Regulation 29B of the Defence (General) Regulations, 1939, hereby orders as follows :—

1.—(1) Subject as hereinafter provided any person in the service of an authority to whom the provisions of the Civil Defence (Employment and Offences) (No. 2) Order, 1941, or the provisions of the Civil Defence (Employment and Offences) (No. 3) Order, 1941, apply shall be liable on being served with a notice issued—

- (i) by the authority to be transferred to employment in any capacity to which Regulation 29B of the Defence (General) Regulations, 1939, applies in the service of the authority in any part of the area of the authority, provided that the transfer will not involve his living away from home ;
- (ii) by a Regional Commissioner to be transferred to employment as a member of the civil defence reserve ;
- (iii) by a Regional Commissioner to be transferred to employment in any capacity to which the said Regulation 29B applies in the service of the authority or of another authority.

(2) Any notice issued under this article shall be in writing and shall specify the person to whom and the time and place at which the person transferred shall report for duty, and, unless the notice is cancelled by a Regional Commissioner or, in the case of a notice issued by an authority, by that authority, or unless the notice is suspended by virtue of paragraph (1) of article 2 of this order, the transfer shall take effect accordingly.

(3) A transfer under this article may be for an indefinite period or for a period limited by the notice. [35]

2.—(1) Where a person is served with a notice under the foregoing article and the transfer will involve his living away from home, he may, within three days of the service of the notice upon him, request in writing on the ground of special hardship the Regional Commissioner by whom the notice was issued to submit the matter to a Local Appeal Board constituted under the Essential Work (General Provisions) Orders, 1941, and thereupon the notice shall be suspended.

(2) Where such a request is made, a Regional Commissioner shall forthwith submit the matter to the Board and the Board shall, so far as practicable within seven days of the matter being submitted to it, make such recommendation as the Board thinks fit.

(3) A Regional Commissioner after considering the recommendation of the Board shall determine the matter and may confirm or cancel the notice or substitute another notice. [36]

3.—(1) In this order the expression " authority " means a local authority or the Port of London Authority.

(2) This order may be cited as the Civil Defence (Employment and Offences) (No. 2) Order, 1942. [37]

* * * * *

THE CIVIL DEFENCE (EMPLOYMENT AND OFFENCES) (NO. 3) ORDER, 1942

S. R. & O., 1942, No. 123

January 22, 1942

In pursuance of the powers conferred on me by Regulations 29B and 38 of the Defence (General) Regulations, 1939, I hereby order as follows :—

1.—(1) Subject as hereinafter provided, any person who, having attained eighteen years of age, is on or after the date of this Order in the service of a local authority and employed in any of the following capacities, that is to say,—

- (i) in the capacity of air raid warden,
- (ii) in the capacity of a member of a civil defence messenger service, decontamination service, first-aid party service, rescue service, or stretcher party service,
- (iii) in any capacity in which persons are employed at control or report centres,

being a person employed without remuneration or not continuously employed in any such capacity as aforesaid wholtime, is required to continue in his employment until his services are dispensed with by or on behalf of the local authority or a Regional Commissioner :

Provided that in the case of an air raid warden in the service of a local authority whose area is comprised in the London Civil Defence Region, the power to dispense with services conferred by this Article on a local authority shall be exercisable—

- (a) if the air raid warden is in the service of the council of a county borough or metropolitan borough, by the person appointed by the council to be air raid precautions controller ;
- (b) if he is in the service of the council of a county district, by the person appointed by the council to be air raid precautions sub-controller ;
or
- (c) if he is in the service of the Common Council of the City of London, by the Commissioner of City of London police.

(2) If—

- (a) any such person employed as aforesaid receives a direction under Regulation 58A of the Defence (General) Regulations, 1939, and
- (b) in order that he may be able to comply with that direction, it is necessary that he should go to live at a different place, and
- (c) the place to which he goes to live is so situated in relation to the area of the local authority by which he is so employed as aforesaid that it is not reasonably practicable that he should continue to be so employed as aforesaid by that authority,

this Article shall, as from the date when he goes to live at that place, cease to apply to him.

(3) In this Article the expression "remuneration" does not include subsistence or travelling allowances. [38]

2. Paragraph (1A) of Regulation 29B of the Defence (General) Regulations, 1939 (which paragraph relates to disobedience to lawful orders and absence from duty), shall apply to any person to whom Article 1 of this Order applies. [39]

3. This Order may be cited as the Civil Defence (Employment and Offences) (No. 3) Order, 1942. [40]

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THE CIVIL DEFENCE (EMPLOYMENT AND OFFENCES) (NO. 4) ORDER, 1942

S. R. & O., 1942, No. 178

January 22, 1942

103824.

The Minister of Health, in pursuance of the powers conferred on him by Regulation 29B of the Defence (General) Regulations, 1939, hereby orders as follows :—

1.—(1) Subject as hereinafter provided, any person who, having attained eighteen years of age, is on or after the date of this order in the service of a local authority and employed in any capacity as a member of either the first aid post services or the ambulance services, being a person employed without remuneration or not continuously employed in any such capacity as aforesaid whole-time, is required to continue in his employment until his services are dispensed with by or on behalf of the local authority or a Regional Commissioner.

(2) If—

- (a) any such person employed as aforesaid receives a direction under Regulation 58A of the Defence (General) Regulations, 1939, and
- (b) in order that he may be able to comply with that direction, it is necessary that he should go to live at a different place, and
- (c) the place to which he goes to live is so situated in relation to the area of the local authority by which he is so employed as aforesaid that it is not reasonably practicable that he should continue to be so employed as aforesaid by that authority,

this article shall, as from the date when he goes to live at that place, cease to apply to him.

(3) In this article the expression "remuneration" does not include subsistence or travelling allowances. [41]

2. Paragraph (1A) of Regulation 29B of the Defence (General) Regulations, 1939 (which paragraph relates to disobedience to lawful orders and absence from duty), shall apply to any person to whom article 1 of this order applies. [42]

3. This order may be cited as the Civil Defence (Employment and Offences) (No. 4) Order, 1942. [43]

* * * * *

THE ESSENTIAL WORK (RECALL TO CIVIL DEFENCE) ORDER, 1942

S. R. & O., 1942, No. 132

January 15, 1942

The Minister of Labour and National Service by virtue of the powers conferred on him by Regulations 58A and 98 of the Defence (General) Regulations, 1939, hereby makes the following Order.

1. This Order may be cited as the Essential Work (Recall to Civil Defence) Order, 1942, and shall come into force on the 22nd January, 1942. [44]

2. Where—

(a) under the provisions of any Order made by the appropriate authority under Regulation 29B of the Defence (General) Regulations, 1939, the services of a person have been dispensed with and that person is subsequently required to return to employment under and in accordance with the provisions of any Order so made as aforesaid; and

(b) that person is, at the date of the said requirement—

(i) employed in an undertaking or by an employer in respect of which employment permission is, under the provisions of that one of the Orders set out in the Schedule hereto which is applicable to the case, necessary before he leaves his employment, or

(ii) a member of a body of persons in respect of which membership the permission as aforesaid or any period of notice is necessary before he ceases to be such member;

then and in that case that person shall be entitled to leave his employment or to cease to be such member without obtaining such permission as aforesaid and without giving any notice that may be provided for by or under the last-named Order in order to return to the employment to which he is required to return under any such Order as is mentioned in paragraph (a) of this Article.

[45]

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SCHEDULE

The Essential Work (General Provisions) Orders, 1941 (S. R. & O., 1941, Nos. 302 and 1051).

The Essential Work (Agriculture) (Scotland) Order, 1941 (S. R. & O., 1941, No. 1557).

The Essential Work (Building and Civil Engineering) (No. 2) Order, 1941 (S. R. & O., 1941, No. 2067).

The Essential Work (Coalmining Industry) (No. 3) Order, 1941 (S. R. & O., 1941, No. 2096).

The Essential Work (Dock Labour) Order, 1941 (S. R. & O., 1941, No. 1440).

The Essential Work (Merchant Navy) Order, 1941 (S. R. & O., 1941, No. 634).

The Essential Work (Shipbuilding and Ship-repairing) Order, 1941 (S. R. & O. 1941, No. 300). [46]

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THE CIVIL DEFENCE (REVISION OF CODE) ORDER, 1942

S. R. & O., 1942, No. 662

April 2, 1942

Whereas by the Civil Defence (Approval and Revision of Code) Order, 1939, a code for the guidance of occupiers and owners of factory premises, factories, mines and commercial buildings and other persons concerned in providing air-raid shelter was approved and revised so as to bring the said Code into conformity with the revised Code set out in the Schedule to the said Order :

And whereas the said revised Code was further revised by the Civil Defence (Revision of Code) Order, 1940 :

And whereas it is expedient that the said revised Code should be further revised :

Now, therefore, I, in pursuance of the power conferred on me by section 13 of the Civil Defence Act, 1939, hereby make the following Order :—

1. Paragraph 6 of the said revised Code shall be revised by substituting for rule (1) thereof the following rule :—

“(1) (a) in the case of a shelter accommodating not more than twelve persons, or (b) in the case of a trench shelter having openings at both ends into the open air, or (c) in the case of a shelter wholly or partly above ground accommodating not more than fifty persons and freely ventilated by two entrances connecting directly or indirectly with the open air, it must have for every person accommodated not less than $3\frac{3}{4}$ square feet of floor area.

Provided that any such shelter which is used as a dormitory must have for every person so using it not less than 6 square feet of floor area and not less than 50 cubic feet capacity”. [47]

2. This Order may be cited as the Civil Defence (Revision of Code) Order, 1942. [48]

* * * * *

DIRECTIONS UNDER THE SALE OF FOOD (PUBLIC AIR RAID SHELTERS) ORDER, 1940

S. R. & O., 1942, No. 708

April 14, 1940

Pursuant to Article 5 of the Sale of Food (Public Air Raid Shelters) Order, 1940, the Minister of Food hereby orders and directs that the said Order shall on and after the 20th day of April, 1942, extend to the area of the Borough of Port Talbot. [49]

* * * * *

THE AIR-RAID PRECAUTIONS (STORAGE AND LOAN OF EQUIPMENT) (AMENDING) REGULATIONS, 1942

S. R. & O., 1942, No. 819

March 20, 1942

In pursuance of the powers conferred upon me by subsection (1) of section eleven of the Air-Raid Precautions Act, 1937, and with the concurrence of the Treasury, I hereby make the following Regulations :—

1. In Regulation seven of the Air-Raid Precautions (Storage and Loan of Equipment) Regulations, 1940, for the word “six” there shall be substituted the word “twelve”. [50]

2. These Regulations may be cited as the Air-Raid Precautions (Storage and Loan of Equipment) (Amending) Regulations, 1942.

In pursuance of section two of the Rules Publication Act, 1893, I hereby certify that on account of urgency these Regulations should come into immediate operation, and I make them to come into operation forthwith as Provisional Rules in England and Statutory Rules in Scotland. [51]

* * * * *

THE POLICE AND CIVIL DEFENCE DUTIES (TRIBUNALS) ORDER, 1942

S. R. & O., 1942, No. 914

May 8, 1942

The Minister of Labour and National Service by virtue of the powers conferred on him by Regulation 29BA of the Defence (General) Regulations, 1939, hereby makes the following Order :—

1. This Order may be cited as the Police and Civil Defence Duties (Tribunals) Order, 1942, and shall come into force on the date hereof. [52]

2. Subject to the provisions of Article 6 of this Order any person to whom a direction is given under Regulation 29BA of the Defence (General) Regulations, 1939, may within four days of the giving of the direction apply in writing to the National Service Officer for the withdrawal or modification of the direction on the ground that it would be an exceptional hardship if the applicant were required to perform the duties required of him by virtue of the direction. [53]

3. The National Service Officer shall forthwith refer any such application to a Local Appeal Board constituted in accordance with the provisions of the Essential Work (General Provisions) Order, 1942, and the Board shall make such recommendation to the National Service Officer as it thinks fit, so far as is practicable within seven days of the application being referred to it. [54]

4. If any question arises as to the medical fitness of an applicant to perform the duties required of him by virtue of a direction given under the said Regulation 29BA that question shall be determined by reference to the report of a registered medical practitioner selected by the Minister or a National Service Officer as to the medical fitness of the applicant and not otherwise, and in any case in which such a question has arisen if the applicant

has not been examined by a registered medical practitioner selected as aforesaid or it is, in the opinion of the Local Appeal Board, necessary that he should be re-examined the Local Appeal Board shall recommend the withdrawal of the direction with a view to the necessary arrangements being made for the medical examination or further medical examination of the applicant as the case may be by a registered medical practitioner selected as aforesaid. [55]

5. The National Service Officer, after considering any such recommendation as aforesaid, may withdraw or modify the direction, or may confirm or re-issue it with or without such modifications as may appear expedient having regard to the recommendation. [56]

6. Where a direction given under the said Regulation 29BA has been modified, confirmed or re-issued (whether with or without modifications) under the powers conferred by Article 5 of this Order the person to whom the direction was given shall not be entitled to make any further application under this Order for the withdrawal or modification of the direction. [57]

* * * * *

THE CIVIL DEFENCE DUTIES (EXEMPTION TRIBUNALS) ORDER, 1942

S. R. & O., 1942, No. 2287

November 4, 1942

In pursuance of the powers conferred upon me by Regulations twenty-six A, twenty-seven A and thirty-eight of the Defence (General) Regulations, 1939, I hereby order as follows :—

1.—(1) The tribunal to which an application under paragraph (3) or paragraph (4) of Article 4 of the Civil Defence Duties (Compulsory Enrolment) Order, 1942, may be made shall be the Military Service (Hardship) Committee for the district being, or comprising the whole or any part of, the area of the local authority which may serve or has served on the applicant the enrolment notice in relation to which the application is made.

(2) Any such application may be made by delivering notice thereof, in the form set out in Part I of the Schedule to this order or in a form substantially to the like effect or in such form as may be prescribed, to a local office of the Ministry of Labour and National Service at any time.

(3) Subject to the provisions of Part VII of the National Service (Armed Forces) (Miscellaneous) Regulations, 1939, as applied by this order, any person authorised in that behalf by the said local authority shall be entitled to be heard before the Committee on the application. [58]

2.—(1) The tribunal to which an appeal under paragraph (8) of Article 4 of the Civil Defence Duties (Compulsory Enrolment) Order, 1942, may be made shall be the Military Service (Hardship) Committee for the district being, or comprising the whole or any part of, the area of the local authority from whose decision the appeal is brought.

(2) Any such appeal may be made by delivering notice thereof, in the form set out in Part II of the Schedule to this order or in a form substantially to the like effect or in such form as may be prescribed, to a local office of the Ministry of Labour and National Service within fifteen days from the date of the decision appealed against, or within such further period as the said Committee in special circumstances may allow.

(3) Subject to the provisions of Part VII of the National Service (Armed Forces) (Miscellaneous) Regulations, 1939, as applied by this order, any person authorised in that behalf by the said local authority shall be entitled to be heard before the Committee on the appeal. [59]

3.—(1) The tribunal to which an application under paragraph (a) or paragraph (aa) of the proviso to paragraph (1) of Article 4 of the Fire Prevention (Business Premises) (No. 2) Order, 1941, may be made shall be the Military Service (Hardship) Committee for the district in which the applicant is required to perform the duties with respect to which the application is made.

(2) Any such application may be made by delivering notice thereof, in the form set out in Part III of the Schedule to this order or in a form substantially to the like effect or in such form as may be prescribed, to a local office of the Ministry of Labour and National Service at any time.

(3) Subject to the provisions of Part VII of the National Service (Armed Forces) (Miscellaneous) Regulations, 1939, as applied by this order—

(a) the occupier of the premises at which the applicant is required to perform the duties with respect to which the application is made, or any person authorised by him in that behalf; and

(b) any person authorised in that behalf by the local authority for the area in which those premises are situated;

shall be entitled to be heard before the Committee on the application. [60]

4.—(1) The tribunal to which an application under paragraph (a) or paragraph (b) of the proviso to paragraph (1) of Article 4 of the Fire Prevention (Government Premises) Order, 1942, may be made shall be the Military Service (Hardship) Committee for the district in which the applicant is required to perform the duties with respect to which the application is made.

(2) Any such application may be made by delivering notice thereof, in the form set out in Part III of the Schedule to this order or in a form substantially to the like effect or in such form as may be prescribed, to a local office of the Ministry of Labour and National Service at any time.

(3) Subject to the provisions of Part VII of the National Service (Armed Forces) (Miscellaneous) Regulations, 1939, as applied by this order, any person authorised in that behalf by the appropriate department for the premises at which the applicant is required to perform the duties with respect to which the application is made shall be entitled to be heard before the Committee on the application. [61]

5. The provisions of Part VII of the National Service (Armed Forces) (Miscellaneous) Regulations, 1939, as amended by any subsequent Regulations for the time being in force, shall apply, in so far as they relate to the procedure of Military Service (Hardship) Committees, to the procedure of those Committees under this order with the following modifications, that is to say—

(a) references to an applicant shall be construed as including references to a person appealing under paragraph (8) of Article 4 of the Civil Defence Duties (Compulsory Enrolment) Order, 1942;

(b) Regulation fifteen shall have effect as if there were inserted at the end thereof the following paragraph :—

“(2) Such notice as aforesaid shall also be sent to any local authority, appropriate department or other person entitled to be heard before the Committee on the application or appeal”;

(c) in Regulation eighteen the reference to the Minister shall be construed as a reference to any local authority, appropriate department or other person entitled to be heard by the Committee on the application or appeal;

(d) Regulation twenty-two shall have effect as if the words from " but " to the end of the Regulation were omitted. [62]

6. In any case where an application is made under paragraph (3) of Article 4 of the Civil Defence Duties (Compulsory Enrolment) Order, 1942, or paragraph (a) of the proviso to paragraph (1) of Article 4 of the Fire Prevention (Business Premises) (No. 2) Order, 1941, or paragraph (a) of the proviso to paragraph (1) of Article 4 of the Fire Prevention (Government Premises) Order, 1942, on the ground of medical unfitness, the Committee may require the applicant to submit to such medical examination as may be directed by the Committee and, if he fails to do so within such time as the Committee may fix, the Committee may dismiss the application. [63]

7. An order by the Committee for exemption or release from, or reduction of, duties may be made so as to have effect either without limit of time or subject to such limit of time as the Committee may determine. [64]

8.—(1) In this order the following expressions have the meanings hereby respectively assigned to them, that is to say :—

"appropriate department" has the same meaning as in the Fire Prevention (Government Premises) Order, 1942 ;

"local authority" has the same meaning as in the Civil Defence Duties (Compulsory Enrolment) Order, 1942 ;

"Military Service (Hardship Committee)" means a Committee appointed under Part II of the Schedule to the National Service (Armed Forces) Act, 1939 ;

"prescribed" means prescribed by the Minister of Home Security ;

(2) Any reference in this order to any of the provisions of any other order shall be construed as a reference to those provisions as amended by any subsequent order. [65]

9.—(1) The Civil Defence Duties (Exemption Tribunals) Order, 1941, and the Civil Defence Duties (Exemption Tribunals) (No. 2) Order, 1941, are hereby revoked.

(2) Any notice delivered, authority given or thing done under any provision of the orders revoked by this order shall, if it is in force at the date of this order, be deemed, for the purposes of this order to have been delivered, given or done under the corresponding provision of this order, and references in any document to any order revoked by this order or to any provision of any such order shall be construed as a reference to this order or to the corresponding provision of this order. [66]

10. This order may be cited as the Civil Defence Duties (Exemption Tribunals) Order, 1942. [67]

* * * * *

SCHEDULE

PART I

Form of notice of application under paragraph (3) or paragraph (4) of Article 4 of the Civil Defence Duties (Compulsory Enrolment) Order, 1942.

APPLICATION No.....

DEFENCE (GENERAL) REGULATIONS

PART-TIME CIVIL DEFENCE DUTIES

NOTICE OF APPLICATION FOR EXEMPTION FROM ENROLMENT OR FOR RELEASE
FROM OR REDUCTION OF DUTIES

(NOTE.—This form should be completed by the applicant and returned as soon as possible to a local office of the Ministry of Labour and National Service.

Any person who makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular, will be liable to severe penalties.)

(1) Name in full
(Surname first in Block Capitals.)

(2) Home address in full.....

(3) Local Authority by which registered or enrolled

(4) (a) Date of registration (if not enrolled).....

(b) Date of enrolment (if enrolled)

I hereby apply { *for exemption from enrolment
*for release from duties
*for a reduction in the number of hours of duty }

for the following period on the following grounds:—

(a) Ground of application

(b) Period for which exemption, release or reduction is desired.....

* (c) Number of hours of reduction desired.....

Sign here

Date

NOTE.—If you wish, you may enclose a medical certificate or obtain on the back of this form a signed statement by another person in confirmation of the facts stated by you at (a) above.

CONFIRMATORY STATEMENT

.....
.....

* Delete if not applicable.

PART II

Form of notice of appeal under paragraph (8) of Article 4 of the Civil Defence Duties (Compulsory Enrolment) Order, 1942

APPEAL No.....

DEFENCE (GENERAL) REGULATIONS

PART-TIME CIVIL DEFENCE DUTIES

NOTICE OF APPEAL FROM REFUSAL OF LOCAL AUTHORITY TO GRANT EXEMPTION FROM REGISTRATION OR RELEASE FROM DUTIES ON CHANGE OF RESIDENCE

(NOTE.—The Committee may refuse to hear the appeal if this notice is not completed by the applicant and returned so as to reach a local office of the Ministry of Labour and National Service not later than fifteen days from the date of the refusal of the local authority against which the appeal is brought.

Any person who makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular, will be liable to severe penalties.)

- (1) Name in full
 (Surname first in Block Capitals.)
- (2) Present home address in full.....
- (3) Date of refusal of the local authority against which the appeal is brought

I hereby appeal against the refusal of the.....
 Council to grant me { *exemption from registration }
 { *release from duties }
 on the following grounds :—

Sign here

Date

NOTE.—If you wish, you may obtain on the back of this form a signed statement by another person in confirmation of the facts stated by you above.

CONFIRMATORY STATEMENT

.....

PART III

Form of notice of application under paragraph (a) or paragraph (aa) of the proviso to paragraph (1) of Article 4 of the Fire Prevention (Business Premises) (No. 2) Order, 1941, or under paragraph (a) or paragraph (b) of the proviso to paragraph (1) of Article 4 of the Fire Prevention (Government Premises) Order, 1942.

APPLICATION No.....

DEFENCE (GENERAL) REGULATIONS

FIRE PREVENTION (BUSINESS AND GOVERNMENT PREMISES)

NOTICE OF APPLICATION FOR EXEMPTION

(NOTE.—This form should be completed by the applicant and returned as soon as possible to a local office of the Ministry of Labour and National Service.

Any person who makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular, will be liable to severe penalties.)

- (1) Name in full
 (Surname first in Block Capitals.)
- (2) Home address in full.....
- (3) (a) Premises where duty is to be performed
- (b) { *Name of employer at those premises.....
 { *Appropriate department for those premises.....

I hereby apply { *for exemption from
 *for a reduction in the number of hours for which I can be
 required to perform

fire prevention duties for the following period on the following grounds :—

(a) Grounds of application

.....

(b) Period for which exemption or reduction is desired

* (c) Number of hours reduction desired.....

Sign here

Date

NOTE.—If you wish, you may enclose a medical certificate or obtain on the back of this form a signed statement by another person in confirmation of the facts stated by you at (a) above.

CONFIRMATORY STATEMENT

.....

[68]

* Delete if not applicable.

ANIMALS

ORDERS, CIRCULARS AND MEMORANDA :—	PAGE	Imported Cattle(Restriction on Use) (Amendment) (No. 2) Order, 1942	PAGE
Brucellosis Melitensis (Amendment) Order, 1942 — — —	27	Transport of Horses Direction (No. 3), 1942 — — —	31
Warble Fly (Dressing of Cattle) (Suspension) Order, 1942 — —	28	Foot-and-Mouth Disease (Disinfection of Road Vehicles) (Amendment) Order, 1942 — — —	31
Wild Birds Protection (Administrative County of Southampton) Order, 1942 — — —	28		

ORDERS, CIRCULARS AND MEMORANDA

THE BRUCELLOSIS MELITENSIS (AMENDMENT) ORDER OF 1942

S. R. & O., 1942, No. 143

January 16, 1942

6172.

The Minister of Agriculture and Fisheries, by virtue and in exercise of the powers vested in him under the Diseases of Animals Acts, 1894 to 1937, the Agriculture Act, 1937, and of every other power enabling him in this behalf, hereby orders as follows :—

Amendment of definition of expression "animal"

1. The Brucellosis Melitensis Order of 1940 shall be read and have effect as if the following definition of the expression "animal" were sub-

stituted for the definition of that expression contained in Article 10 of that Order :—

“Animal” means cattle, sheep, goats, swine, horses, asses and mules. [69]

Short Title

2. This Order may be cited as the Brucellosis Melitensis (Amendment) Order of 1942. [70]

* * * *

THE WARBLE FLY (DRESSING OF CATTLE) (SUSPENSION) ORDER OF 1942

S. R. & O., 1942, No. 318

February 19, 1942

6178.

The Minister of Agriculture and Fisheries, by virtue and in exercise of the powers vested in him under the Diseases of Animals Acts, 1894 to 1937, and of every other power enabling him in this behalf, hereby orders as follows :—

Suspension of the Warble Fly (Dressing of Cattle) Order, 1936

1. The operation of the Warble Fly (Dressing of Cattle) Order of 1936, as amended by the Order of the Minister No. 5397 dated 26th February, 1936, and the Warble Fly (Dressing of Cattle) (Amendment) Order of 1940, is hereby suspended until it is otherwise ordered. [71]

Short Title

2. This Order may be cited as the Warble Fly (Dressing of Cattle) (Suspension) Order of 1942. [72]

* * * *

THE WILD BIRDS PROTECTION (ADMINISTRATIVE COUNTY OF SOUTHAMPTON) ORDER, 1942

S. R. & O., 1942, No. 1208

June 12, 1942

In pursuance of the powers conferred on me by the Wild Birds Protection Acts, 1880 to 1939, and upon application by the Council of the Administrative County of Southampton, I hereby make the following Order :—

1. This Order may be cited as The Wild Birds Protection (Administrative County of Southampton) Order, 1942. [73]

CLOSE TIMES

Variation in certain areas of period laid down by the Wild Birds (Duck and Geese) Protection Act, 1939

2. The period during which the killing or taking of eider duck, mallard, pochard, sheldrake, shoveller, smew, teal, widgeon or **Wild Duck** of any other species whatsoever (except merganser or goosander) or **Wild Goose** of any species whatsoever, is prohibited, shall be varied so as to begin with the 15th

day of February and end with the 11th day of August in each year throughout the foreshore of the Administrative County of Southampton including :—

- (i) all such flats, sands, shingle, sandhills, saltmarshes and saltings and such parts of any creeks, rivers and streams as lie between the said foreshore and the first boundary of enclosed or cultivated lands ; and
- (ii) as respects any such creek or the bed of any such river or stream, any other tidal parts thereof. [74]

Close Time extended for certain other Wild Birds

3. The period during which the killing or taking of Wild Birds is prohibited by the Wild Birds Protection Act, 1880, shall be extended throughout the Administrative County of Southampton so far as regards the **Greenshank**, **Snipe** and **Whimbrel** so as to begin with the 15th day of February and end with the 11th day of August, and so far as regards the **Woodcock** so as to begin with the 2nd day of February and end with the 12th day of August in each year. [75]

CERTAIN BIRDS DEPRIVED OF PROTECTION

4. The whole of the Administrative County of Southampton is hereby exempted from the operation of the Wild Birds Protection Act, 1880, so far as the undermentioned birds are concerned :—

Cormorant,
Little Owl,
Shag,

House-Sparrow,
Wood-Pigeon (Ring Dove).

[76]

CERTAIN BIRDS PROTECTED DURING THE WHOLE OF THE YEAR AND
ADDED TO THE SCHEDULE TO THE ACT OF 1880

5. During that part of the year to which the protection afforded by the Wild Birds Protection Act, 1880, does not apply the killing or taking of the undermentioned species of Wild Birds is prohibited throughout the Administrative County of Southampton ; and the Act shall apply to the undermentioned species that are not included in the Schedule to the Act in the same manner as if they were so included :—

Little Auk,

Avocet,

Bee-eater,

Bitterns,

Blackcap,

Buntings,

Bustards,

Buzzards,

Chiffchaffs,

Chough,

Crakes,

Crossbill,

Cuckoos,

Curlews,

Divers,

Eagles,

Peregrine Falcon,

Flycatchers,

Goldcrests,

Goldfinch,

Goshawks,

Grebes,

Gulls (except Black-backed Gulls),

Horned

Night-Heron,

Hobby,

Hoopoe,

Kestrel,

Kingfisher,

Kite,

Lapwing (Peewit, Green Plover),

Larks,

Linnet,

House-Martin,

Sand-Martin,

Merlin,

Nightingale,

Nightjar,

Nutcrackers,

Nuthatch,

Golden Oriole,

Osprey,

Ring Ouzel,

Owls (except Little Owl),

Phalaropes,

Pipits,

Quail,

Water-Rail

Raven,
 Lesser Redpoll,
 Mealy Redpoll,
 Redstarts,
 Robins,
 Roller,
 Shrikes,
 Hedge-Sparrows,
 Spoonbill,
 Rose-coloured Starling (or Pastor),
 Stonechats,
 Storks,
 Swallow,
 Swift,
 Terns,
 Song-Thrushes,

Mistle-Thrush,
 Bearded-Tit,
 Long-tailed Tits,
 Crested Tits,
 Tree-creepers,
 Wagtails,
 Warblers,
 Waxwing,
 Wheatears,
 Whinchat,
 Whitethroat,
 Lesser Whitethroat,
 Woodpeckers,
 Common Wren,
 Wryneck.

[77]

ALL BIRDS PROTECTED ON SUNDAYS AND CHRISTMAS DAY

6. During that period of the year to which the protection afforded by the Wild Birds Protection Act, 1880, as extended by Clause 3 of this Order does not apply, the killing or taking of any Wild Bird on Sundays and on Christmas Day is prohibited throughout the Administrative County of Southampton. [78]

Eggs

Certain Eggs protected throughout the County

7. The taking or destroying of the Eggs of the species of **Wild Birds** to which **Clause 5 of this Order** applies and of the Wild Birds undermentioned is prohibited throughout the Administrative County of Southampton.

Turtle-Dove,
 Wild Duck (all species),
 Greenshank,
 Redshanks,

Sandpipers,
 Snipe,
 Whimbrel,
 Woodcock.

[79]

REPEAL OF FORMER ORDERS

8. The Orders of the 27th April, 1933, and 9th January, 1941, are hereby repealed. [80]

* * * *

THE IMPORTED CATTLE (RESTRICTION ON USE) (AMENDMENT) (NO. 2) ORDER, 1942

S. R. & O., 1942, No. 1262

June 25, 1942

Whereas it appears to the Minister of Agriculture and Fisheries, the Secretary of State for Scotland and the Secretary of State for the Home Department to be necessary for maintaining supplies and services essential to the life of the community and expedient that this Order should be made :

Now, therefore, in pursuance of the powers conferred upon them by Regulation 55 of the Defence (General) Regulations, 1939, as amended, and of all other powers them enabling, the said Minister and Secretaries of State hereby order as follows :—

1. The Imported Cattle (Restriction on Use) (Amendment) Order, 1942,

2. At the end of Article 1 of the Imported Cattle (Restriction on Use) Order, 1941, dated the 20th October, 1941, there shall be added the following :—

- (2) Cattle removed from the Isle of Man into the United Kingdom, shall for the purposes of this Order be deemed to be imported into the United Kingdom. [82]

3. For Article 2 of the Imported Cattle (Restriction on Use) Order, 1941, there shall be substituted the following Article :

This Order applies to :—

- (i) all cows and heifers obviously in calf ;
 (ii) all cows in milk ;
 (iii) all bulls. [83]

4. This Order shall be read as one with the Imported Cattle (Restriction on Use) Order, 1941, and shall come into force on the 29th day of June, 1942. [84]

5. This Order may be cited as the Imported Cattle (Restriction on Use) (Amendment) (No. 2) Order, 1942. [85]

* * * * *

THE TRANSPORT OF HORSES DIRECTION (NO. 3), 1942

S. R. & O., 1942, No. 1689

August 24, 1942

In exercise of the powers conferred upon him by Regulation 55 of the Defence (General) Regulations, 1939, and of all other powers enabling him in that behalf, the Minister of War Transport hereby gives the following directions as respects any railway undertaking :—

1. On and after 15th September, 1942, no race-horse shall be accepted for conveyance by rail, unless the consignor satisfies the railway company to whom the race-horse is tendered for conveyance that the conveyance is not for the purpose or in contemplation of a race meeting. [86]

2. This Direction may be cited as "The Transport of Horses Direction (No. 3) 1942". [87]

* * * * *

THE FOOT-AND-MOUTH DISEASE (DISINFECTION OF ROAD VEHICLES) (AMENDMENT) ORDER, 1942

S. R. & O., 1942, No. 1794

August 31, 1942

6252.

The Minister of Agriculture and Fisheries, by virtue and in exercise of the powers vested in him under the Diseases of Animals Acts, 1894 to 1937, and of every other power enabling him in this behalf, hereby orders as follows :—

Exemption from requirements of Foot-and-Mouth Disease (Disinfection of Road Vehicles) Order of 1941 in respect of vehicles used for carriage of concentrated and boiled swill.

1. The provisions of Article 1 of the Foot-and-Mouth Disease (Disinfection of Road Vehicles) Order of 1941, which

- (i) require any road vehicle, which has been used for the carriage of swill or for the carriage of any bag, sack or other container which has been used for the carriage of swill, to be disinfected after each occasion of such use and before being again used for the carriage of feeding stuffs for animals, litter or anything intended to be used for or about animals, and
- (ii) prohibit the carriage of feeding stuffs for animals (other than swill) or litter, or anything intended to be used for or about animals in any road vehicle at the same time as such road vehicle is being used for the carriage of swill or for the carriage of any vessel, bag, sack or other container which has been used for the carriage of swill,

shall not apply in the case of—

- (a) swill in respect of which the Minister has issued a licence to the occupier of the premises on which such swill has been treated in a concentrator plant, declaring that the provisions of the Foot-and-Mouth Disease (Boiling of Animal Foodstuffs) Order of 1932, shall not apply to such swill,
- (b) swill treated on premises in respect of which the occupier thereof holds a valid certificate from the Minister or from the Local Authority certifying that all swill supplied therefrom is subjected on such premises to a process of boiling within the meaning of the Foot-and-Mouth Disease (Boiling of Animal Foodstuffs) Order of 1932. [88]

Definition of "Animals"

2. The Foot-and-Mouth Disease (Disinfection of Road Vehicles) Order of 1941 shall be read and have effect as if the following definition of the expression "animals" were included in Article 4 of that Order :—

"Animals" means cattle, sheep, pigs or goats. [89]

Short Title

3. This Order may be cited as the Foot-and-Mouth Disease (Disinfection of Road Vehicles) (Amendment) Order of 1942. [90]

* * * * *

BILLETING

See EVACUATION AND BILLETING.

BUILDING

ORDERS, CIRCULARS AND MEMO-		PAGE
RANDA :—		
Defence (General) Regulations,		
Regulations 56A, 56AB amended —	33	

Defence (General) Regulations,		PAGE
Regulation 56AB amended —		33

ORDERS, CIRCULARS AND MEMORANDA

ORDER IN COUNCIL AMENDING REGULATIONS 56A, 56AB OF THE DEFENCE (GENERAL) REGULATIONS, 1939

S. R. & O., 1942, No. 1279

July 1, 1942

1.—(1) . . .

(2) . . .

(3) In Regulations . . . fifty-six A . . . and fifty-six AB, of the Defence (General) Regulations, 1939, for the words "the Minister of Works and Buildings", wherever they occur, there shall be substituted the words "the Minister of Works and Planning". [91]

* * * *

ORDER IN COUNCIL AMENDING REGULATIONS . . . 56AB . . . OF . . . THE DEFENCE (GENERAL) REGULATIONS, 1939

S. R. & O., 1942, No. 2561

December 16, 1942

* * * *

4. In paragraph (10) of Regulation fifty-six AB of the principal Regulations, for the words "Minister of Commerce" there shall be substituted the words "Ministry of Labour"; and the Schedule to the Defence (Functions of Ministers) Regulations, 1941, shall apply in relation to the functions transferred by this Article as it applies in relation to functions transferred by those Regulations. [92]

* * * *

BURIAL AND CREMATION

ORDERS, CIRCULARS AND MEMORANDA :—		PAGE		PAGE
Defence (Burial, Inquests and Registration of Deaths) Regulations, 1942	— — —	33	tions, 1942, Regulation amended — —	2 40
Defence (Burial, Inquests and Registration of Deaths) Regulations, 1942	— — —	—	Order Applying Regulation 2 (6B) of the Defence (Burial, Inquests and Registration of Deaths) Regulations, 1942	— — — 40

ORDERS, CIRCULARS AND MEMORANDA

THE DEFENCE (BURIAL, INQUESTS AND REGISTRATION OF DEATHS) REGULATIONS, 1942

S. R. & O., 1942, No. 1444

July 23, 1942

At the Court at Buckingham Palace, the 23rd day of July, 1942.

PRESENT,

The King's Most Excellent Majesty in Council.

His Majesty, in pursuance of the Emergency Powers (Defence) Acts, 1939 and 1940, and of all other powers enabling Him in that behalf, is pleased, by

and with the advice of His Privy Council, to order, and it is hereby ordered that Regulations thirty, thirty A and seventy-nine A of the Defence (General) Regulations, 1939, shall, without prejudice to their continuance in force, cease to form part of the Defence (General) Regulations, 1939, and shall have effect as set out in Regulations two, three and four respectively of the Regulations contained in the following provisions of this Order, and references in any certificate, direction, report, notice or other instrument made before the coming into operation of this Order to the said Regulation thirty, thirty A or seventy-nine A shall be construed as references to the said Regulation three, four or five, as the case may be, and accordingly it is hereby ordered as follows :—

1.—(1) These Regulations may be cited as the Defence (Burial, Inquests and Registration of Deaths) Regulations, 1942.

(2) Part V of the Defence (General) Regulations, 1939, shall apply for the purposes of these Regulations as if they were included in those Regulations. [93]

2.—(1) If, with respect to any dead body in any county borough or county district or in the district of a sanitary authority for the purposes of the Public Health (London) Act, 1936, there has been given by a person authorised by the Secretary of State to act under this Regulation a certificate that it is the body of a person who has died in consequence of war operations, then, notwithstanding anything in any Act, the council of the borough or district or the sanitary authority, as the case may be, shall, unless they are satisfied that adequate arrangements have been otherwise made for the disposal of the body, themselves cause the body to be interred in such churchyard, public burial ground or cemetery as they think fit.

Any expenses incurred for the purposes of this paragraph by such a sanitary authority as aforesaid shall be defrayed as if they were expenses incurred under the Public Health (London) Act, 1936.

(2) Section one of the Births and Deaths Registration Act, 1926 (which provides that the body of a deceased person shall not be disposed of without either the certificate of the registrar of deaths or an order of the coroner), shall not apply in relation to any interment of a dead body effected in pursuance of this Regulation.

(3) No person who, apart from this Regulation, would be required to give any information concerning a death to a coroner shall be obliged so to give that information, if that person has reasonable cause to believe that the death occurred in consequence of war operations; and, except in any particular case in which the Secretary of State otherwise directs, a coroner shall not be obliged or authorised to take any action in relation to any death if he is satisfied that the death occurred in consequence of war operations :

Provided that the provisions of this paragraph shall have effect subject to the provisions of Regulation three of these Regulations.

(4) The enactments relating to the registration of deaths shall have effect as if the information thereby required to be given to a registrar concerning the death of any person included, in a case where the informant has reasonable cause to believe that the death occurred in consequence of war operations, a statement that the death so occurred.

(5) The enactments relating to the registration of deaths shall, in relation to any case in which a certificate that a dead body is the body of a person who has died in consequence of war operations is given by a person authorised by the Secretary of State to act under this Regulation, have effect as if the class of persons required by those enactments to give information concerning the death to a registrar included the person by whom the certificate is given ;

and any duty imposed by the said enactments, as amended by this Regulation, to give any information concerning the death to a registrar or to attend before the registrar and sign the register shall, in that case, be deemed to have been discharged by the said person if, within the time limited for the giving of that information, he sends the certificate together with so much of that information as he has in his possession to the registrar.

(6) Where, upon information of a death given to a registrar in accordance with the enactments relating to the registration of deaths, as amended by this Regulation, the registrar is satisfied that the death occurred in consequence of war operations, he shall, subject to any such general or special directions as may be given by the Registrar General of Births, Deaths and Marriages for determining the manner in which a death so occurring is to be registered, register the death forthwith in the manner directed by the said enactments.

(6A) Where an application is made under Regulation seven of the Cremation Regulations, 1930, for the cremation of the body of a deceased person, and there is produced to the medical referee or the deputy medical referee of the crematorium a certificate given under the hand of the registrar of deaths in pursuance of section two of the Births and Deaths Registration Act, 1926, or a duplicate thereof issued under subsection (4) of that section, showing—

- (a) that the death of the deceased has been registered as being due to war operations, or
- (b) that the death is not required by law to be registered in England and that satisfactory evidence has been produced that the death was due to war operations,

the following provisions of the Cremation Regulations, 1930, shall not apply, that is to say—

- (i) Regulation eight, except so far as it requires the cremation to be authorised in writing by the medical referee of the crematorium ;
- (ii) paragraph (3), so far as it relates to certificates, and paragraphs (5) and (6), of Regulation twelve.

(7) In this Regulation—

- (a) the expression “ body ” includes part of a body ;
- (b) the expression “ the Cremation Regulations, 1930,” means the Regulations dated October 28, 1930, made by the Secretary of State for the Home Department, under section seven of the Cremation Act, 1902, and section ten of the Births and Deaths Registration Act, 1926.

(8) This Regulation shall, in its application to Scotland, have effect subject to the following modifications :—

- (a) for the reference to the Registrar General of Births, Deaths and Marriages there shall be substituted a reference to the Registrar General of Births, Deaths and Marriages in Scotland ;
- (b) in paragraph (1) for references to a county borough and to a county district there shall be substituted respectively references to a burgh and to a county, and for the words from “ Any expenses ” to the end of the paragraph there shall be substituted the words “ Any expenses incurred for the purposes of this paragraph by a county or town council shall be defrayed in like manner as expenses under the Public Health (Scotland) Act, 1897 ” ;
- (c) for paragraph (2) there shall be substituted the following paragraph—

“ (2) In any case in which a certificate that a dead body is the body of a person who has died in consequence of war operations is given by a person authorised by the Secretary of State

to act under this Regulation, and in accordance with the enactments relating to the registration of deaths, as amended by this Regulation, there is given to the registrar any information concerning the death, which includes a statement that the death occurred in consequence of war operations, the Registration of Births, Deaths and Marriages (Scotland) Act, 1854, shall have effect in relation to the death as if in section thirty-nine the words from ' and the registrar ' to the end of the section, and in section forty-four the words from ' and if any dead body ' to the end of the section, were omitted " ;

- (d) at the end of paragraph (6) the following words shall be added :—

" and no inquiry in regard to the death shall, unless the Lord Advocate otherwise directs, be held in pursuance of the Fatal Accidents Inquiry (Scotland) Act, 1895, or of section fifty-three of the Prisons (Scotland) Act, 1877, either as originally enacted or as applied or extended by any subsequent enactment " ;

- (e) for paragraph (6A) there shall be substituted the following paragraph :—

" (6A) Where, on an application for the cremation of the body of any deceased person, there is produced to the medical referee or the deputy medical referee of the crematorium a certificate by a qualified medical practitioner to the effect that death was due to a specified cause which is consistent with death directly due to war operations, together with either—

- (a) a certificate given by a person authorised by the Secretary of State to act under this Regulation that the body is the body of a person who has died in consequence of war operations ; or
- (b) a certificate of registration under the hand of the registrar of births, deaths and marriages in the form of Schedule I appended to the Registration of Births, Deaths and Marriages (Scotland) Act, 1854 ; or
- (c) a certificate given under the hand of the registrar of deaths in pursuance of section two of the Births and Deaths Registration Act, 1926, or a duplicate thereof issued under subsection (4) of that section showing that the death of the deceased has been registered ;

the following provisions of the Cremation (Scotland) Regulations, 1935, shall not apply, that is to say—

- (i) Regulation six ;
- (ii) Regulation eight ;
- (iii) in Regulation twelve, paragraph (d), and the words from ' In the event of any suspicious circumstances ' to the end of the Regulation."

- (9) This Regulation shall, in its application to Northern Ireland, have effect subject to the following modifications :—

- (a) for the reference to the Registrar General of Births, Deaths and Marriages, there shall be substituted a reference to the Registrar General for Northern Ireland ;
- (b) in paragraph (1) for the references to a county borough or county district and to the council of the borough or district there shall be substituted respectively references to the district of a sanitary authority within the meaning of the Public Health (Ireland) Act, 1878, and to the sanitary authority, and for the words from " Any expenses " to the end of the paragraph there shall be substituted the words " Any expenses incurred for the purposes of this para-

graph by a sanitary authority shall be defrayed as expenses incurred by them in the execution of the Public Health (Ireland) Act, 1878, and in the case of a rural sanitary authority shall be general expenses". [94]

3.—(1) If a registrar of deaths, or any person authorised by the Secretary of State to act under this Regulation, has reason to believe—

- (a) that the death of a certain person has or may have occurred in consequence of war operations; and
- (b) that the body of that person—
 - (i) has been destroyed, or cannot be found, or is in a place from which it cannot be recovered, or cannot be identified; or
 - (ii) has been buried as that of a person unknown or as that of some other person;

he may make a report to that effect to the coroner having jurisdiction within an area in or near which the death is believed to have occurred.

(2) On receiving such a report about any person, the coroner shall, unless he thinks that no useful purpose would be served by so doing, cause to be exhibited, at such place or places in the district where the death of that person is believed to have occurred as he thinks suitable for eliciting information about that person, a notice stating—

- (a) the name and address of that person;
- (b) that his death is believed to have occurred in the said district on a date specified in the notice;
- (c) that the coroner proposes to inquire into the matter at such time and place as may be so specified; and
- (d) that persons having information about the matter should send it to the coroner or attend at the time and place so specified.

(3) At the time and place specified in the said notice, or, if no such notice has been exhibited, at such time and place as he thinks fit, the coroner shall inquire into the matter, and shall have, for the purpose of the inquiry, all the same powers as he has for the purpose of an inquest:

Provided that, unless the Secretary of State on the application of the coroner otherwise directs,—

- (a) the inquiry shall be held without a jury; and
- (b) the coroner shall not require the exhumation of a body which has been buried.

(4) If, after holding such an inquiry with respect to the death of any person, the coroner is of opinion that the death of that person has occurred, and that it occurred in consequence of war operations, he shall issue a certificate to that effect; and every such certificate shall contain such particulars as are required by law to be contained in the certificate issued by a coroner after holding an inquest.

(5) A coroner by whom any such certificate is issued shall forthwith transmit the certificate to the registrar for the sub-district in which the death is certified to have occurred, and, in a case where the report was made to him by some person other than that registrar, shall give notice to that person of the issue and transmission of the certificate.

(6) On receipt of any such certificate with respect to the death of any person, the registrar shall, subject to any such general or special directions as may be given by the Registrar General of Births, Deaths and Marriages,

register the death in the manner prescribed under the enactments relating to the registration of deaths for the registration of a death on the certificate of a coroner after holding an inquest :

Provided that any such registration shall be so effected as to show that it was effected on a certificate issued in pursuance of this Regulation.

(7) Section thirty-eight of the Births and Deaths Registration Act, 1874, shall apply as if the reference therein to a certificate from a coroner included a reference to a certificate issued by a coroner under this Regulation.

(8) Any council having power to appoint a coroner may make to any county or borough coroner appointed, or deemed for the purpose of section five of the Coroners (Amendment) Act, 1926, to have been appointed, by them, such payments in respect of his functions under this Regulation as they think fit ; and any such payments shall be deemed for the purpose of section eight of that Act to be expenses incurred under that Act upon the salary of the coroner.

(9) This Regulation shall apply to Northern Ireland subject to the following modifications :—

(a) for the reference to a sub-district there shall be substituted a reference to a district ;

(b) for the reference to the Registrar General of Births, Deaths and Marriages there shall be substituted a reference to the Registrar General for Northern Ireland ;

(c) for the reference to section thirty-eight of the Births and Deaths Registration Act, 1874, there shall be substituted a reference to section twenty-eight of the Births and Deaths Registration (Ireland) Act, 1880 ;

(d) for paragraph (8) there shall be substituted the following paragraph :—

“(8) Any council having power to appoint a coroner may make to any county or borough coroner appointed by them such payments in respect of his functions under this Regulation as they may fix with the approval of the Ministry of Home Affairs for Northern Ireland ; and any such payments shall be paid as part of the coroner's salary.” [95]

4. Where any person in His Majesty's service or engaged in the performance of essential services would, in the opinion of the Lord Advocate, be an essential witness at any public inquiry regarding a death to which the Fatal Accidents Inquiry (Scotland) Act, 1895, applies, it shall not be necessary to hold such an inquiry unless the Lord Advocate thinks it expedient in the public interest and directs accordingly. [96]

5.—(1) The enactments relating to the registration of deaths and certificates of the cause of death shall not apply in any case where the deceased person is a member of the American forces.

(2) Sections one and three of the Births and Deaths Registration Act, 1926, shall not apply to the burial of any member of the American forces in any burial ground, or part of a burial ground, reserved solely for the use of an authority of the United States of America.

(3) Where it is intended to dispose of the body of a member of the American forces elsewhere than in such a burial ground or part of a burial ground as aforesaid, subsection (2) of section two of the Births and Deaths Registration Act, 1926, shall apply in like manner as it applies in a case where the body of a deceased person has been removed into England for disposal.

(4) If any coroner having jurisdiction to hold an inquest touching a death is satisfied that the deceased person was at the time of his death a member of the American forces, then, unless the Secretary of State otherwise directs, the coroner shall not hold the inquest, or, if the inquest has been begun but not completed, shall adjourn the inquest and, if a jury has been summoned, discharge the jury.

(5) If, on an inquest touching the death of a person other than a member of the American forces, the coroner is satisfied before the inquest is completed that a member of the American forces has been charged before a court of the United States of America with any offence involving responsibility for the death of the deceased person, or is being detained by any authority of the United States of America with a view to his being so charged, then, unless the Secretary of State otherwise directs, the coroner shall adjourn the inquest and, if a jury has been summoned, shall discharge the jury, and shall furnish the registrar of deaths with a certificate stating the particulars necessary for the registration of the death so far as they have been ascertained at the inquest.

(6) Where an inquest is adjourned under this Regulation, the coroner shall not resume it except on the direction of the Secretary of State and, if he does resume it, shall proceed in all respects as if the inquest had not previously been begun, except that it shall not be obligatory on the coroner to view the body or to furnish the registrar of deaths with any further certificate.

(7) For the purposes of this Regulation, all persons who are by the law of the United States of America for the time being subject to the military or naval law of that country shall be deemed to be members of the American forces :

Provided that no civilian employed in connection with the said forces shall be deemed to be a member thereof unless he entered into his engagement outside the United Kingdom.

(8) For the purposes of this Regulation, a certificate issued by or on behalf of such authority as may be designated for the purpose by the government of the United States of America stating that a person of the name and description specified in the certificate was, at a time so specified, subject to the military or naval law of the United States of America, shall be conclusive evidence of that fact ; and any document purporting to be such a certificate and to be signed by or on behalf of an authority designated by the government of the United States of America for the purposes of this Regulation, shall be received in evidence, and shall, unless the contrary is proved, be deemed to be a certificate issued by or on behalf of an authority so designated.

(9) In this Regulation, the expression " American forces " means the military and naval forces of the United States of America.

(10) This Regulation shall in its application to Northern Ireland have effect subject to the following modifications :—

- (a) for any reference to the Secretary of State there shall be substituted a reference to the Minister of Home Affairs for Northern Ireland ;
- (b) for the reference to sections one and three of the Births and Deaths Registration Act, 1926, there shall be substituted a reference to sections seventeen and nineteen of the Births and Deaths Registration (Ireland) Act, 1880 ; and
- (c) paragraph (3) shall not apply. [97]

ORDER IN COUNCIL AMENDING REGULATION 2 OF THE DEFENCE (BURIAL, INQUESTS AND REGISTRATION OF DEATHS) REGULATIONS, 1942

S. R. & O., 1942, No. 1549

August 6, 1942

At the Court at Buckingham Palace, the 6th day of August, 1942.

PRESENT,

The King's Most Excellent Majesty in Council.

His Majesty, in pursuance of the Emergency Powers (Defence) Acts, 1939 and 1940, and of all other powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, that after paragraph (6A) of Regulation two of the Defence (Burial, Inquests and Registration of Deaths) Regulations, 1942, there shall be inserted the following paragraph :—

“(6B) Any male person, being a member of a naval, military or air force, who dies from injuries sustained by him in the course of his duties as such, being injuries ascribable to an accident in which an aircraft belonging to a naval, military or air force is involved, or to an accident which arises out of a descent from any such aircraft, shall be deemed for the purposes of paragraphs (3) to (6A) of this Regulation to have died in consequence of war operations :

Provided that—

- (a) this paragraph shall not apply unless at the time of the accident the aircraft was being operated under the orders of a naval, military or air force ;
- (b) where a person authorised in that behalf by a Secretary of State or the Admiralty certifies that at a particular time an aircraft did or did not belong to, or was or was not being operated under the orders of, a particular force, the certificate shall be conclusive as to the facts stated therein.

A Secretary of State or the Admiralty may by order direct that this paragraph shall apply to all or any of the members of any such organisation as may be specified in the order as it applies to male persons who are members of a naval, military or air force.

In this paragraph, the expression ‘ aircraft ’ includes balloons, whether fixed or free, kites, gliders, airships and any other form of flying machine.”

[98]

ADMIRALTY ORDER, DATED NOVEMBER 30, 1942, APPLYING REGULATION 2 (6B) OF THE DEFENCE (BURIAL, INQUESTS AND REGISTRATION OF DEATHS) REGULATIONS, 1942, TO MEMBERS OF SPECIFIED ORGANISATIONS.

S. R. & O., 1942, No. 2479

November 30, 1942

In pursuance of the powers vested in them by paragraph (6B) of Regulation 2 of the Defence (Burial, Inquests and Registration of Deaths) Regulations, 1942, the Lords Commissioners of the Admiralty hereby order that the

said paragraph shall apply to all members of the following organisations as it applies to male persons who are members of a naval military or air force :

Women's Royal Naval Service.

Queen Alexandra's Royal Naval Nursing Service, or any reserve thereof.

Voluntary Aid Detachments employed under the direction of the Admiralty. [99]

CANALS

ORDERS, CIRCULARS AND MEMORANDA :—	PAGE		PAGE
Defence (General) Regulations, Regulation 69 amended - -	41	Canal Control Order, 1942 - -	42
Defence (General) Regulations, Regulations 69, 70 amended - -	42	Canal Control (No. 2) Order, 1942 - -	43
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ORDERS, CIRCULARS AND MEMORANDA

ORDER IN COUNCIL AMENDING REGULATION 69 OF THE DEFENCE (GENERAL) REGULATIONS, 1939

S. R. & O., 1942, No. 1279

July 1, 1942

* * * * *

6.—(1) In paragraphs (1) and (2) of Regulation sixty-nine of the principal Regulations, after the word "railway", wherever it occurs, there shall be inserted the words "canal, inland navigation, or canal carrier"; and in the said paragraph (2) for the words "the preceding paragraph" there shall be substituted the words "this Regulation".

(2) At the end of the said Regulation sixty-nine there shall be added the following paragraphs :—

"(4) No person shall, by virtue of the Compensation (Defence) Act, 1939, be entitled to compensation in respect of the taking control under this Regulation of any canal, inland navigation or canal carrier undertaking.

(5) The Minister of War Transport may by order confer on the persons carrying on any canal, inland navigation or canal carrier undertaking of which he has taken control under this Regulation, all such powers as appear to him to be necessary or expedient for the purpose of enabling those persons, notwithstanding any statutory limitation, to enter into and to carry out any agreement with him providing for financial matters arising out of, or in connection with, such control.

(6) In this Regulation the expression 'canal carrier undertaking' means an undertaking consisting wholly or partly in the carriage of goods by canal or inland navigation." [100]

* * * * *

ORDER IN COUNCIL AMENDING REGULATIONS . . . 69 AND 70 OF . . . THE DEFENCE (GENERAL) REGULA- TIONS, 1939

S. R. & O., 1942, No. 2561

December 16, 1942

* * * * *

8. At the end of the sidenotes to Regulations sixty-nine and seventy of the principal Regulations there shall be added, in each case, the words "canals and inland navigations", in paragraph (1) of the said Regulation seventy the words from "and may be made" to the end of the paragraph shall be omitted and after the said paragraph (1) there shall be inserted the following paragraphs:—

"(1A) Without prejudice to any other of these Regulations, the Minister of War Transport may by order provide for the regulation of traffic on canals and inland navigations, and, without prejudice to the generality of the power aforesaid, any such order may in particular provide—

- (a) for determining the routes and stages by which craft may proceed on canals or inland navigations, either generally or in such circumstances as may be determined by or in accordance with the order;
- (b) for prohibiting or regulating the use of craft or craft of any description on canals or inland navigations, or any specified canal or inland navigation, either generally or in such circumstances as may be so determined.

(1B) Any order made under this Regulation may be made so as to apply either generally or to any specified area, and may make different provision for different parts of the area to which the order applies." [101]

* * * * *

THE CANAL CONTROL ORDER, 1942

S. R. & O., 1942, No. 1327

July 1, 1942

The Minister of War Transport in pursuance of his powers under Regulation 69 of the Defence (General) Regulations, 1939, and all other powers enabling him in that behalf makes the following Order:—

1. The Minister hereby takes control of the undertakings or portions of undertakings in Great Britain wholly owned by, leased to or operated by any one or more of the following undertakers:—

- 1. Aire and Calder Navigation
- 2. Aire and Calder & River Dun Navigations Joint Committee (New Junction Canal)
- 3. Birmingham Canal Navigations
- 4. Bridgewater Department of the Manchester Ship Canal Company
- 5. Calder and Hebble Navigation
- 6. Coventry Canal Navigation
- 7. Gloucester and Sharpness Ship Canal and Worcester and Birmingham Canal

{ Sections of Sharpness Docks
and Gloucester and Birmingham Navigation Company

8. Grand Union Canal Company
9. Lee Conservancy Board
10. Leeds and Liverpool Canal Company
11. Oxford Canal Company
12. Severn Commission
13. Sheffield and South Yorkshire Navigation Company
14. Staffordshire and Worcestershire Canal Company
15. Stourbridge Navigation
16. Trent Navigation Company
17. Trent Navigation Committee (Nottingham Corporation)
18. Weaver Navigation Trustees
19. Frederick J. Abbott Limited
20. Samuel Barlow Coal Company Limited
21. S. E. Barlow
22. Calder Carrying Company Limited
23. Canal Transport Limited
24. Erewash Canal Carrying Company Limited
25. Fellows Morton and Clayton Limited
26. Grand Union Canal Carrying Company Limited
27. Severn Carrying Company Limited
28. Warwickshire Canal Carrying Company
29. T. F. Wood and Company Limited. [102]

2. The release from this Order of any undertaking or part of an undertaking may be made by writing under the hand of the Minister or of the Director General or Deputy Director General or any Assistant Secretary of the Ministry of War Transport. [103]

3. This Order shall come into force on the First day of July, 1942, and may be cited as "The Canal Control Order, 1942". [104]

* * * * *

THE CANAL CONTROL (NO. 2) ORDER, 1942

S. R. & O., 1942, No. 1658

August 1, 1942

The Minister of War Transport in pursuance of his powers under Regulation 69 of the Defence (General) Regulations, 1939, and all other powers enabling him in that behalf makes the following Order :—

1. The Minister hereby takes control of the undertakings or portions of undertakings in Great Britain wholly owned by, leased to or operated by any one or more of the following undertakers :—

1. The Anderton Company Limited.
2. Direct Delivery Service Limited.
3. Furley and Company Limited.
4. John Hunt and Sons (Leeds) Limited.
5. The Mersey, Weaver and Ship Canal Carrying Company Limited.
6. H. Oldridge and Son.
7. Ernest Thomas.
8. Trent Carriers Limited. [105]

2. The release from this Order of any undertaking or part of an undertaking may be made by writing under the hand of the Minister or of the

Director General or Deputy Director General or any Assistant Secretary of the Ministry of War Transport. [106]

3. This Order shall come into force on the First day of August, 1942, and may be cited as "The Canal Control (No. 2) Order, 1942". [107]

* * * *

THE CANAL CONTROL (NO. 3) ORDER, 1942

S. R. & O., 1942, No. 2053

October 1, 1942

The Minister of War Transport in pursuance of his powers under Regulation 69 of the Defence (General) Regulations, 1939, and all other powers enabling him in that behalf makes the following Order :—

1. The Minister hereby takes control of the undertakings or portions of undertakings in Great Britain wholly owned by, leased to or operated by any one or more of the following undertakers :—

- (1) J. Barraclough & Company Limited.
- (2) W. Bleasdale & Company Limited.
- (3) T. Fletcher & Sons (Canal Transport) Limited.
- (4) G. D. Holmes, Limited.
- (5) J. J. Tomlinson. [108]

2. The release from this Order of any undertaking or part of an undertaking may be made by writing under the hand of the Minister or of the Director General or Deputy Director General or any Assistant Secretary of the Ministry of War Transport. [109]

3. This Order shall come into force on the first day of October, 1942, and may be cited as "The Canal Control (No. 3) Order, 1942." [110]

* * * *

THE TRAFFIC ON CANALS AND INLAND NAVIGATIONS ORDER, 1942

S. R. & O., 1942, No. 2655

December 28, 1942

By virtue of his powers under Regulation 70 of the Defence (General) Regulations, 1939, and of all other powers enabling him in that behalf, the Minister of War Transport hereby orders as follows :—

1. The Area Ice Traffic Controller of the Minister of War Transport, whose name and address appear in the Schedule hereto in relation to any Area specified in the said Schedule may, whenever there is ice on any canal or inland navigation so specified in relation to that Area, give Directions prohibiting or regulating the use of craft or craft of any description on all or any of such canals and inland navigations and no one shall use any craft in contravention of any such Direction. [111]

2. This Order shall come into force on the twenty-eighth day of December, 1942, and may be cited as "The Traffic on Canals and Inland Navigations Order, 1942." [112]

SCHEDULE

NORTH-EASTERN AREA

Aire & Calder Navigation.
 Aire & Calder & River Dun Navigations
 Joint Committee (New Junction Canal).
 Calder & Hebble Navigation.
 Sheffield & South Yorkshire Navigation.
 Leeds & Liverpool Canal (Leeds to Skipton
 Section).
 Huddersfield Broad Canal.
 Ripon & Boroughbridge Canal.

Mr. H. V. Riley,
 Aire & Calder Navigation,
 Dock Street,
 Leeds, 1.

NORTH-WESTERN AREA

Bridgewater Department of the Man-
 chester Ship Canal.
 Weaver Navigation.
 Ashton, Macclesfield & Peak Forest
 Canals.
 Manchester, Bolton & Bury Canal.
 St. Helens Canal.
 Leeds & Liverpool Canal (Liverpool and
 Leigh to Skipton Section).
 Huddersfield Narrow Canal.
 Lancaster Canal.

Mr. N. N. Bird,
 Manchester Ship Canal Company,
 Bridgewater Department,
 Chester Road,
 Manchester, 15.

NORTH-WESTERN AREA—RAILWAY GROUP.

Shropshire Union Canal.
 Trent & Mersey Canal.

Mr. A. Thompson,
 Shropshire Union Canal Agent,
 Tower Wharf,
 Chester.

EAST MIDLAND AREA

Trent Navigation.
 Trent Navigation Committee (Notting-
 ham Corporation).
 Chesterfield Canal.
 Fossdyke Navigation.
 Witham Navigation.

Mr. W. Fraser,
 Trent Navigation Company,
 Wilford Street,
 Nottingham.

WEST MIDLAND AREA

Birmingham Canal Navigations.
 Coventry Canal Navigation (North of
 Atherstone Lock).
 Staffordshire & Worcestershire Canal.
 Stourbridge Navigation.
 Stourbridge Extension Canal.

Mr. P. Nadin,
 Birmingham Canal Navigations.
 Sneyd House,
 Bloxwich,
 Nr. Walsall.

SOUTH-WESTERN AREA

Gloucester & Sharpness Ship Canal &
 Worcester & Birmingham Canal.
 River Severn (between Gloucester &
 Stourport).
 Lydney Harbour & Canal.
 Kennet and Avon Navigation.

Mr. H. E. Spiers,
 Dock Office,
 Gloucester.

LONDON AREA.

Grand Union Canal.

Oxford Canal.

Coventry Canal Navigation (South of
Atherstone Lock).

Ashby Canal.

Lee Conservancy.

Cromford Canal.

Gravesend & Higham Canal.

Kensington Canal.

Mr. L. S. Lee,

Grand Union Canal Carrying
Company,Transport House,
Reservoir Road,

Ruislip,

Middx.

[113]

* * * * *

CENSUS

ORDERS, CIRCULARS AND MEMORANDA :—

Defence (General) Regulations, Regulation 20AB

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ORDERS, CIRCULARS AND MEMORANDA

ORDER IN COUNCIL . . . ADDING REGULATION . . . 20AB
. . . TO THE DEFENCE (GENERAL) REGULATIONS, 1939*S. R. & O., 1942, No. 961**May 22, 1942*

* * * * *

3. After Regulation twenty AA of the principal Regulations the following Regulation shall be inserted :—

“20AB.—(1) The National Registration Act, 1939, shall have effect as if the following entry were added at the end of the Schedule to that Act, ‘8. Nationality’.

(2) The power to make regulations conferred by section four of the National Registration Act, 1939, shall include power to make regulations providing for the making of returns in respect of persons staying at hotels or at such other premises as may be prescribed by the regulations, being returns containing such particulars with respect to any of the matters specified in the Schedule to the said Act (as extended by this Regulation) as may be so prescribed, and for requiring the production of the identity cards of those persons, and the examination thereof by such persons concerned in the management of the premises as may be so prescribed.

(3) After paragraph (c) of subsection (2) of section six of the said Act the following paragraph shall be inserted :—

‘(cc) provide for the issue to such persons or classes of persons, and in such circumstances, as may be prescribed, of identity cards valid for a limited period only ;’

and for paragraph (e) of the said subsection the following paragraph shall be substituted :—

‘(e) provide for the surrender of identity cards by such persons or classes of persons, and in such circumstances, as may be prescribed, and, except where the person to whom the card relates has died or is outside the United Kingdom, for the issue of a fresh identity card in place of the surrendered card or (in the case of a card valid for a limited period only) for the endorsement of the card for a further period.’

(4) For subsection (4) of section six of the said Act the following subsections shall be substituted :—

' (4) A constable in uniform, or any person authorised for the purpose under the said regulations, may require a person who under the regulations is for the time being responsible for the custody of an identity card forthwith to produce the card to him :

Provided that if, within the prescribed period after the requirement was made, the person so required produces the card in person at such place and to such person as may be prescribed, he shall not be convicted of an offence under this Act by reason of his failure to produce the card at the time when the requirement was made.

(5) Where a person fails to produce an identity card when required to do so under the last foregoing subsection, the person who required its production may, without prejudice to the taking of proceedings in respect of the failure, require him to furnish orally or in writing particulars with respect to any of the matters specified in the Schedule to this Act.'

(5) Paragraph (a) of section seven of the said Act shall be amended by the substitution for the words from 'to the following persons' to the end of paragraph (a) of the words 'to any such person or class of persons as may be prescribed ; and '.

(6) At the end of section eight of the said Act the following subsection shall be added :—

' (5) Notwithstanding any limitation imposed by law as respects the time within which proceedings under the Summary Jurisdiction Acts may be commenced, proceedings under those Acts against any person for an offence under this Act may be commenced at any time within the period of six months from the date on which evidence sufficient in the opinion of the Registrar-General to justify a prosecution for the offence comes to his knowledge, or within the period of twelve months after the commission of the offence, whichever period last expires.

For the purposes of this subsection a certificate purporting to be signed by the Registrar-General as to the date on which such evidence as aforesaid came to his knowledge shall be conclusive evidence thereof.

This subsection shall have effect, in the case of proceedings in Scotland, as if for the references to the Registrar-General there were substituted references to the Lord Advocate '." [114]

* * * * *

COMMITTEES

CASES :—

De Buse v. McCarthy & Stepney Borough Council, [1942] 1 All E. R. 19 — — 48

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CASES

Libel and Slander—Privilege—Statutory duty—No common interest to make and receive communication—Report of committee to borough council—Metropolis Management Amendment Act, 1856 (c. 112), s. 9.

The three appellants, employees of the Stepney Borough Council, claimed damages for libel from the respondents, the town clerk and the borough council. There had been thefts of petrol in the public cleansing department

of the council, in respect of which two employees of the council had been prosecuted and convicted. One of them made certain accusations against certain other employees, and the council appointed a special committee to investigate the system of administering the petrol supply of the department, and also to investigate the general question of the dishonesty which had taken place. On Jan. 30, the committee made a report to the council. The report contained a list of the names of the employees who had been accused of being concerned in the stealing of the petrol. The names of the appellants were amongst them. The committee stated that the accusations had been reiterated before them, and that the employees concerned had emphatically denied them. The committee also stated that they deemed it expedient to have a proper regard to the attitude and demeanour of the named employees, and, with one exception, the committee recommended the removal of the named employees from their positions and their transfer to other positions. The report was published in an agenda, a copy of which was sent to the public libraries in the borough, while a copy was also affixed on or near the door of the town hall. It was in respect of these publications that complaint was made. The respondents contended that the council was bound to make such publication by reason of the provisions of the Metropolis Management Amendment Act, 1856, s. 9, and also that the council and the ratepayers had had a common interest in the subject-matter of the words complained of, and that, consequently, the occasion was privileged :—

Held : (i) assuming the matter complained of to be defamatory, there was nothing in the Metropolis Management Amendment Act, 1856, s. 9, which justified the publication either on or near the door of the town hall or in the public libraries ;

(ii) the plea of privilege failed, because the council had no interest or duty in common with the ratepayers which would justify the publication of the report to the ratepayers before it had been considered by the council itself. Also, the ratepayers had no interest or duty to receive the communication at the time when it was published.—*DE BUSE v. MCCARTHY & STEPNEY BOROUGH COUNCIL*, [1942] 1 K. B. 156 ; [1942] 1 All E. R. 19 ; 111 L. J. K. B. 170 ; 166 L. T. 52 ; 106 J. P. 73 ; 58 T. L. R. 83 ; 85 Sol. Jo. 468 ; 39 L. G. R. 382, C. A. [115]

COMMONS

See OPEN SPACES.

DISEASE

See, also, FACTORIES.

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ORDERS, CIRCULARS AND MEMORANDA

ORDER IN COUNCIL ADDING REGULATION 33B . . . TO
THE DEFENCE (GENERAL) REGULATIONS, 1939*S. R. & O., 1942, No. 2277**November 5, 1942*

* * * * *

2.—(1) After Regulation thirty-three A of the said Regulations, there shall be inserted the following Regulation :—

“ **33B.**—(1) Any special practitioner (as defined by this Regulation) who receives from a patient found by him to be suffering from a venereal disease information as to a person from whom the patient suspects that the disease was contracted, shall, unless, having regard to the time at which sexual relations between the parties are alleged to have taken place and any other information before him, the practitioner is of opinion that there is no reasonable cause to believe that the disease was so contracted, send a notice in the prescribed form giving the prescribed particulars, as to the patient and the disease from which the patient is suffering and as to the person from whom it is suspected that the disease was contracted, to the medical officer of health for the county or county borough in which that person is believed by the practitioner to reside.

(2) If it appears to the medical officer of health for any county or county borough that any person resident in that county or county borough, being a person specified in notices sent under the foregoing paragraph, is a person from whom two or more patients suspect that they have contracted a venereal disease, the medical officer of health shall, unless it appears to him that there is no reasonable cause to believe that the disease was so contracted, serve on that person a notice in the prescribed form—

- (a) stating that according to information received in pursuance of this Regulation there is reason to believe that that person may require treatment in respect of venereal disease; and
- (b) requiring that person to attend for, and submit to, medical examination by a special practitioner within such period as may be specified in the notice, and to send to the medical officer of health within ten days after service of the notice a certificate by a special practitioner showing that the requirements of the notice have been complied with.

Any such notice shall be served upon the person on whom it is required to be served personally, except in any case in which service by post is authorised by the Minister of Health on being satisfied that all reasonable steps to effect personal service have been taken and that such service is impracticable; and with any such notice there shall be furnished information as to the names and addresses of special practitioners from whom suitable medical examination and treatment may be obtained free of charge.

(3) A special practitioner by whom any person is examined in pursuance of the requirements of any such notice as aforesaid shall either send to the medical officer of health by whom the notice was served a clearance certificate in respect of the person examined, or serve upon that person (hereinafter referred to as ‘the contact’) a notice in the prescribed form (hereinafter referred to as a ‘treatment notice’) requiring the contact to attend for, and submit to, further examination and treatment in accordance with such directions as may be given by him or by such other special practitioner as

may be, for the time being, named in the notice, and to continue to do so until a clearance certificate in respect of the contact has been furnished by the contact to the medical officer of health for the county or county borough in which the contact resides :

Provided that, at any time before a clearance certificate is given in respect of any contact, the contact may send to the practitioner named in the treatment notice, or to the medical officer of health for the county or county borough in which the contact resides, a notice in writing (hereinafter referred to as a ' transfer notice ') of the intention of the contact to transfer to some other special practitioner, and thereupon the treatment notice shall have effect as if the name of that special practitioner were therein substituted for that of the practitioner formerly named therein.

A transfer notice shall specify the name and address of the special practitioner to whom the contact proposes to transfer, and, in the event of any change or proposed change in the address of the contact, shall also specify the new address of the contact.

(4) A contact by whom a transfer notice is given shall within seven days after giving the notice attend for, and submit to, medical examination by the special practitioner named in the transfer notice.

(5) If, in contravention of the requirements of any treatment notice, a contact fails to attend for, or submit to, medical examination by the special practitioner before whom the contact is thereby required to attend, or to comply with any directions given by such a practitioner, the practitioner shall report the circumstances to the medical officer of health for the county or county borough in which the contact is believed by the practitioner to reside.

(6) If a patient found by a special practitioner to be suffering from a venereal disease gives to him information as to a person from whom the patient suspects that the disease was contracted, such information shall be deemed—

- (a) for the purposes of paragraph (2) of Regulation eighty-two of these Regulations, to have been furnished for the purpose of this Regulation ;
- (b) for the purposes of the law relating to defamation, to have been communicated in pursuance of a statutory duty ;
- (c) for the purposes of Regulation eighty-four of these Regulations, to have been obtained by the practitioner by virtue of this Regulation.

(7) The Minister of Health may make rules for prescribing anything required to be prescribed under this Regulation, and may give such general or special directions as he thinks fit as to the performance by medical officers of health and by special practitioners of the duties required of them, respectively, for the purposes of this Regulation ; and such directions may in particular make provision—

- (a) for the issue, to contacts and to patients by whom such information as is mentioned in paragraph (6) of this Regulation is given, of instructions approved by the Minister explaining the effect of all or any of the provisions of this Regulation ;
- (b) for requiring particulars of any transfer notices to be communicated by and to the medical officers of health and special practitioners concerned ; and
- (c) for requiring special practitioners to furnish free of charge any certificates required for the purposes of this Regulation.

(8) In this Regulation the following expressions have the meanings hereby respectively assigned to them, that is to say—

' clearance certificate ' means, in relation to any contact, a certificate in writing given by a special practitioner certifying that the contact is

not, at the date of the certificate, suffering from a venereal disease in a communicable form ;

‘ prescribed ’ means prescribed by rules made under this Regulation ;

‘ special practitioner ’ means a registered medical practitioner who is qualified under the Local Government (Qualification of Medical Officers and Health Visitors) Regulations, 1930, to be a venereal diseases officer, or who is or has been a venereal diseases officer by virtue of a dispensation given by the Minister under those Regulations, or who is a medical officer of any of His Majesty’s forces employed for the time being as a specialist in venereal diseases, or who is for the time being designated by the Minister of Health for the purposes of this Regulation ;

‘ treatment ’ includes any periodical or other medical examination ;

‘ venereal disease ’ means gonorrhoea, syphilis or soft chancre.

(9) This Regulation shall, in its application to Scotland, have effect subject to the following modifications :—

(a) for any reference to the Minister of Health there shall be substituted a reference to the Secretary of State ;

(b) any reference to a county shall, in the case of counties combined under the Local Government (Scotland) Act, 1929, be construed as a reference to the combined county, for any reference to a county borough there shall be substituted a reference to a large burgh within the meaning of the said Act, and any burgh other than a large burgh shall be deemed to be included in the county in which it is situated ;

(c) for the definition of ‘ special practitioner ’ there shall be substituted the following definition :—

‘ special practitioner ’ means a registered medical practitioner who provides treatment in accordance with the venereal diseases scheme of a local authority approved by the Secretary of State, or who is a medical officer of any of His Majesty’s forces employed for the time being as a specialist in venereal diseases, or who is for the time being designated by the Secretary of State for the purposes of this Regulation.

(10) This Regulation shall not extend to Northern Ireland.”

(2) In the Third Schedule to the said Regulations, after the entry relating to Regulation twenty-nine BA, there shall be inserted the following entry :—

“ Regulation 33A or
Regulation 33B

In the case of proceedings arising out of a notice served by any medical officer of health, by or on behalf of the council by which that officer was appointed.”

[116]

* * * * *

THE VENEREAL DISEASES RULES, 1942

S. R. & O., 1942, No. 2356

November 16, 1942

103528.

The Minister of Health, in exercise of the powers conferred on him by Regulation 33B of the Defence (General) Regulations, 1939, hereby makes the following rules :—

1. These rules may be cited as the Venereal Diseases Rules, 1942. [117]

2. A notice under paragraph (1) of Regulation 33B of the Defence (General) Regulations, 1939, a notice under paragraph (2) of that Regulation and a

treatment notice under that Regulation shall be in the respective forms, and as regards a notice under the said paragraph (1) shall give the particulars, set out in the schedule to these rules and headed respectively Form 1; Form 2 and Form 3 or in a form substantially to the like effect approved by the Minister of Health. [118]

SCHEDULE

Confidential.

FORM 1

Defence (General) Regulations—Regulation 33B.

Notice of suspected source of infection.

PART I

Particulars of patient suffering from venereal disease.

Full name.....

Address.....

Disease.....

PART II

**Particulars of person from whom the patient named in Part I suspects that the disease was contracted*

Name (if known).....

Address (if known).....

Other Identifying Particulars (if name or address unknown).....

Date.....

Signed.....

(name of special practitioner.)

This notice must be sent to the Medical Officer of Health of the County or County Borough in which the address given in Part II of the notice is situated. The envelope in which it is sent must be marked "Strictly Confidential".

Notes for information of patients

1. All information given by patients as to the suspected source of infection will be treated as strictly confidential.

2. No proceedings for libel or slander will lie against any patient with regard to information so given in good faith.

3. It is an offence under the Defence Regulations to make any statement as to the suspected source of infection which is known to be false in a material particular. The maximum penalties incurred are, on summary conviction, three months imprisonment or a fine of £100 or both imprisonment and fine.

FORM 2

Defence (General) Regulations—Regulation 33B

Notice of requirement to submit to medical examination

To.....

(name and address)

* Before the patient is asked to give detailed information as to the suspected source of infection his attention must be drawn to the notes overleaf.

I have received information in pursuance of the above Regulation which gives reason to believe that you may require treatment in respect of venereal disease. In accordance with paragraph (2) of the above Regulation I hereby require you to attend for and submit to medical examination by a special practitioner withindays of the receipt of this notice, and to send to me within ten days of the date of this notice a certificate signed by a special practitioner showing that you have complied with the requirements of this notice.

You may obtain medical examination, and (if necessary) any subsequent treatment, free of charge from the following special practitioner(s) :—

<i>Name.</i>	<i>Address.</i>	<i>Hours.</i>
.....
.....
.....
.....

You should read carefully the explanatory notes overleaf

Date..... *Signed*.....
 (Medical Officer of Health.)
Address

Explanatory Notes

1. When you receive this notice it is your duty to be examined by a "special practitioner" within the period stated in the notice. *It is not enough to go to any doctor for examination—you must go to a "special practitioner"*.

2. A "special practitioner" includes (a) any doctor in charge of a treatment centre for venereal diseases, (b) any doctor who has been in charge of such a centre, or is qualified to be in charge, (c) any doctor employed as a specialist in venereal diseases by the Army, Navy, or Air Force, or by the Dominions Forces, or by the Women's Forces. The names and addresses of "special practitioners" near your home are given in this notice, from whom you may obtain free examination, and treatment if necessary.

3. When you go for examination, you should show this notice to the "special practitioner" and ask him for a certificate that you have attended for examination. *It is your duty to send this certificate to the Medical Officer of Health at the address shown in this notice within ten days of the date of the notice.* To make sure that the certificate reaches him, you should send it by registered post and mark the envelope on the outside "Strictly Confidential".

4. The "special practitioner" who examines you will either give you a further notice requiring you to attend for further examination or treatment; or he will tell you that you are free from venereal disease in a communicable form. If he tells you that you are not suffering from venereal diseases, and that he is sending a certificate to that effect to the Medical Officer of Health, you will no longer be required to attend for examination or treatment.

5. If you cannot afford the travelling expenses involved in attending a special practitioner at a treatment centre, you should tell him the position and ask for the repayment of your expenses.

6. All information obtained in connection with your examination or treatment is regarded as strictly confidential by all concerned.

7. The maximum penalties for failing to comply with any requirements of this notice are, on summary conviction, three months imprisonment or a fine of £100, or both imprisonment and fine.

FORM 3

*Defence (General) Regulations—Regulation 33B**Treatment Notice*

To

.....
(name and address)

Whereas you have been required by the Medical Officer of Health of.....
..... by notice given on under paragraph (2)
of Regulation 33B to submit to medical examination, and you have been examined
by me in accordance with the requirements of that notice : now therefore I hereby
require you to attend for and submit to further examination and treatment in
accordance with such directions as I (or any other special practitioner to whom you
may formally have transferred) may give to you from time to time, until you are
able to furnish to the Medical Officer of Health of the County or County Borough
in which you then reside a certificate given by a special practitioner certifying that
you are not suffering from a venereal disease in a communicable form.

*You should read carefully the explanatory notes overleaf*Signed
(name of special practitioner.)

Date..... Address

Explanatory Notes

1. When you are given this notice, it is your duty to attend for further medical examination and treatment until you are certified free from venereal disease in a communicable form. You must follow carefully the directions given to you by the special practitioner.

2. At any time during your course of examination or treatment you are free to change the special practitioner you attend—for example, if you go to live at another address. If you do this, it is your duty under Regulation 33B—

- (a) to send to the special practitioner you have been attending a transfer notice, stating your intention to attend another special practitioner whose name and address must be stated ;
- (b) if you are changing your own address, to state your new address ;
- (c) to attend the new special practitioner named in the transfer notice within seven days of giving the notice ; and
- (d) to follow the directions given to you by the special practitioner named in the transfer notice.

3. When he is satisfied that you are free from venereal disease in a communicable form, the special practitioner whom you are attending will give you a certificate, which you must send to the Medical Officer of Health of the County or County Borough in which you are then living. You will then no longer be required to attend a special practitioner for examination or treatment.

4. All information obtained in connection with your examination or treatment is regarded as strictly confidential by all concerned.

5. The maximum penalties for failing to comply with any requirements of Regulation 33B are, on summary conviction, three months imprisonment or a fine of £100, or both imprisonment and fine. [119]

THE HOLBORN (ACUTE RHEUMATISM) REGULATIONS, 1942

S. R. & O., 1942, No. 1523

July 28, 1942

103432.

Whereas in exercise of his powers under section 143 of the Public Health Act, 1936, the Minister of Health on the 6th day of December, 1938, made the Holborn (Acute Rheumatism) Regulations, 1938, providing for the notification and treatment of cases of acute rheumatism occurring in the metropolitan borough of Holborn;

And whereas by article 1 (2) of the said regulations it was provided that they should come into operation on the 1st day of January, 1939, and continue in operation for a period of three years from that date;

And whereas it is expedient that the period of operation of the said regulations should be extended:

Now therefore the Minister of Health in exercise of his aforesaid powers hereby makes the following regulations:—

1. Notwithstanding anything in article 1 (2) of the Holborn (Acute Rheumatism) Regulations, 1938, such regulations shall have effect until the 31st day of December, 1944. [120]

2. These regulations may be cited as the Holborn (Acute Rheumatism) Regulations, 1942. [121]

* * * * *

CANCER ACT, 1939

Circular 2707

October 31, 1942

Sir,

(1) I am directed by the Minister of Health to refer to Circular 2469, dated 30th August, 1941, in which Local Authorities were informed of his decision to extend to the 31st March, 1943, the period during which the arrangements to be made by them under the Cancer Act, 1939, should be submitted.

(2) Since it appears that some time must elapse before conditions will permit all Local Authorities to make complete arrangements under the Act the Minister now extends the period during which these should be submitted for a further twelve months, *i.e.* until 31st March, 1944.

(3) The granting of this further extension does not mean that, in so far as present circumstances permit, Local Authorities should not take any practicable measures to provide facilities for expert diagnosis and for skilled treatment, either by surgery, radium, X-rays or otherwise, for all who are suffering or suspected to be suffering from cancer.

(4) It is, however, important in submitting any proposals by way of an instalment of a complete scheme to bear in mind what is said in the booklet "Organisation for the Treatment of Cancer," issued by the Radium Commission, and in particular to secure that the proposals do not prejudice the proper development of a scheme (generally by combinations of more than one County or County Borough) on the effective scale explained on page 3 of the

booklet. Officers of the Ministry will be prepared to advise on the best practical means of securing this end.

A copy of this circular is being sent to the Medical Officer of Health.
[122]

I am, Sir, etc.

* * * *

THE PUBLIC HEALTH (TUBERCULOSIS) REGULATIONS, 1942

Circular 2648

May 22, 1942

Sir,

1. I am directed by the Minister of Health to enclose for the information of the Council copies of new Regulations which he has made with regard to the supply of information about the tuberculous history of women called before medical boards for enlistment in the Women's Auxiliary Forces. The Public Health (Tuberculosis) Regulations, 1940, which were enclosed with Circular 2189 of 23rd September, 1940, required the supply of similar information with regard to men, the object being to ensure that the medical board shall be aware of any past history of tuberculosis at the time when the recruit appears before it for examination. [123]

2. In making the new Regulations applicable to women, the opportunity has been taken of revising the procedure laid down in the earlier Regulations. The information to be supplied about each woman with a tuberculous history is the same as that required in Form T.147 for men; but whereas under the earlier Regulations information was required for every man in each age group concerned, the new Regulations require Medical Officers of Health for Counties and County and Metropolitan Boroughs to supply to local offices of the Ministry of Labour and National Service (or to the head office in the case of recruits for the W.R.N.S.) information only for those women who are actually to appear before a medical board. It will still be necessary, however, under the new Regulations for information to be supplied to the County Medical Officer by Medical Officers of Health of County District Councils about every woman in the age groups prescribed from time to time in a written requirement by the Minister. [124]

3. The procedure laid down in the Regulations is as follows :—

(a) On receipt of a written requirement from the Minister, the Medical Officer of Health of every county district will forthwith send to the County Medical Officer on the prescribed form [Form T.147(W)] the necessary particulars in respect of *every woman born in the years specified in the requirement whose name appears on the register of notifications* under the Regulations of 1930 as suffering or having suffered from tuberculosis. (No action is required at this stage by Medical Officers of Health of other areas, but they may find it convenient to take whatever preliminary action is thought desirable, e.g. the preparation of an alphabetical list of women in the age groups concerned who are known to suffer or to have suffered from tuberculosis.)

(b) On receipt of a written requirement from a local office of the Ministry of Labour and National Service (or from the head office in the case of recruits for the W.R.N.S.), the Medical Officer of Health of every County, County Borough, Metropolitan Borough, Joint Tuberculosis Board, and of the City of London, will complete the prescribed

form in respect of *every woman whose name appears in such a requirement and who is registered in the register of notifications under the Regulations of 1930* as suffering or having suffered from tuberculosis; and he will send the form within seven days of the receipt of the requirement to the appropriate office. [125]

4. The decision to adopt this revised procedure in relation to women has been taken in the light of experience of the previous procedure in relation to men, which has proved to be unsatisfactory in certain respects. As the number of women in each age-group appearing before a medical board will be a comparatively small proportion of the total number in the group, it is hoped that the restriction of the information required to information in respect of those actually boarded will result in a reduction in the work involved and in more satisfactory results. The Minister appreciates that in some areas the new procedure may involve a rather heavier burden on the local authority and its officers; but he is confident that they will readily co-operate in supplying the necessary particulars, especially when it is remembered that the persons concerned are members of a section of the population peculiarly susceptible to tuberculosis, and that in their case it is particularly essential that an adequate medical history should be available to the examining medical board. [126]

5. In pursuance of Article 3 (1) of the Regulations the Minister hereby requires the appropriate Medical Officers of Health to send forthwith, as directed by the Regulations, the necessary particulars in respect of all female registered persons born in the years 1918, 1919, 1920 and 1921. [127]

6. A copy of the Regulations and of the circular are being sent to the Medical Officer of Health, together with a supply of copies of form T.147(W) to all except County Medical Officers. [128]

I am, Sir, etc.

* * * * *

THE PUBLIC HEALTH (TUBERCULOSIS) REGULATIONS, 1942

P. R. & O., 1942

May 19, 1942

103436.

The Minister of Health hereby certifies under section 2 of the Rules Publication Act, 1893, that on account of urgency the following regulations should come into immediate operation and in exercise of his powers under the Public Health Act, 1936, and of all other powers enabling him in that behalf hereby makes the following regulations to come into operation forthwith as provisional regulations:—

1.—(1) These regulations may be cited as the Public Health (Tuberculosis) Regulations, 1942, and shall come into operation on the date hereof.

(2) Regulations 3 and 4 of these regulations shall not apply to Wales and Monmouthshire and regulation 5 of these regulations shall apply only to Wales and Monmouthshire. Subject thereto these regulations shall have effect throughout England and Wales.

(3) These regulations, in so far as they impose duties upon the medical officer of health of a local authority, shall be enforced and executed by the local authority, and, in so far as they impose duties upon the medical officer of health of a county council, shall be enforced and executed by the county council. [129]

2.—(1) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

(2) In these regulations unless the context otherwise requires—

“local authority” includes the common council of the City of London and the council of a metropolitan borough;

“district” in relation to any local authority in London means the area for which the authority acts;

“registered person” in relation to the medical officer of health of a local authority means a person in respect of whom an entry has been made in the register kept by the medical officer of health in pursuance of paragraph (2) of Article 10 of the Public Health (Tuberculosis) Regulations, 1930, and has not been removed in pursuance of sub-paragraph (i) or sub-paragraph (iii) of paragraph (5) of Article 10 of those regulations and “register” means the register so kept;

“the Minister” means the Minister of Health. [130]

3.—(1) Every medical officer of health of a local authority, other than the common council of the City of London, the council of a metropolitan borough and the council of a county borough, shall forthwith on receipt of a requirement in writing by the Minister send to the county medical officer of health for the county within which the district of the local authority is situate, a return in the form shown in the Schedule to these regulations containing the particulars specified in the columns numbered 1, 2, 3 and 4 thereof, of all female registered persons born in the years specified in such requirement.

(2) Every county medical officer of health shall within seven days of the receipt of a requirement in writing from an office of the Ministry of Labour and National Service send to that office a return in the form shown in the Schedule to these Regulations containing the particulars specified therein of all women specified in such requirement of whom particulars have been sent to him under the preceding paragraph of this regulation. [131]

4. The medical officer of health of the common council of the City of London and every medical officer of health of the council of a metropolitan borough or of a county borough shall within seven days of the receipt of a requirement in writing from an office of the Ministry of Labour and National Service send to that office a return in the form shown in the Schedule to these regulations containing the particulars specified therein of all women specified in such requirement who are registered persons. [132]

5.—(1) Every medical officer of health of a local authority in Wales and Monmouthshire shall forthwith on receipt of a requirement in writing by the Minister send to the tuberculosis officer of the Welsh National Memorial Association (in this regulation called “the tuberculosis officer”) a return in the form shown in the Schedule to these regulations containing the particulars specified in the columns numbered 1, 2, 3 and 4 thereof, of all female registered persons born in the years specified in such requirement.

(2) The tuberculosis officer shall within seven days of the receipt of a requirement in writing from an office of the Ministry of Labour and National Service send to that office a return in the form shown in the Schedule to these regulations containing the particulars specified therein of all women specified in such requirement of whom particulars have been sent to him under the preceding paragraph of this regulation. [133]

6. All information received in pursuance of these regulations shall be regarded by every person who has access thereto as confidential. [134]

7. Any expenses incurred by a medical officer of health in carrying out the duties imposed upon him by these regulations shall be defrayed by the council of which he is medical officer of health. [135]

SCHEDULE

THE PUBLIC HEALTH (TUBERCULOSIS) REGULATIONS, 1942

Name of Local Authority.....

The following particulars relate to a woman born in the year..... whose name is included in the register kept by the Medical Officer of Health of the above-mentioned Local Authority in pursuance of paragraph (2) of Article 10 of the Public Health (Tuberculosis) Regulations, 1930.

Name (in full).	Last known usual place of residence.	Year of birth.	Localisation of disease.	Is the woman still receiving treatment ?	If treatment is not being given, give last date of treatment.
1.	2.	3.	4.	5.	6.

Date

Medical Officer of Health.

[136]

* * * * *

TUBERCULOSIS

*Circular 2741**December 18, 1942*

Sir,

1. I am directed by the Minister of Health to state that he has had under consideration the question of improved arrangements for the treatment of tuberculosis, particularly in regard to early diagnosis and treatment and the provision of financial support for the dependants of persons undergoing treatment. The Minister is glad to be able to take action in accordance with recommendations made by the Committee of the Medical Research Council whose Report was published on October 8th. A copy of this Report is being sent to the Medical Officer of Health (together with a copy of this Circular). It has been put on sale and further copies can be purchased through the usual channels. [137]

2. Diagnosis and treatment at the earliest possible stage are the key to success in promoting the early return to health and self-support of persons suffering from tuberculosis. The recent developments in miniature radiography provide wider opportunities for early diagnosis, and the Minister has given special attention to the question of making available for Tuberculosis Authorities equipment for this purpose which has been produced in accordance with a specification approved by high expert authority. In the expectation that Local Authorities would wish to utilise such facilities a part of their tuberculosis scheme the Minister obtained special priority for the supply of a limited number of sets of transportable equipment. These sets will be allocated by the Ministry to selected County Councils and County Borough Councils by whom they can be operated in areas giving most advantageous scope for mass miniature radiography. It is intended that each

unit should be used to serve a fairly wide geographical area, and the Ministry will hope to see arrangements for joint user established by agreement between authorities who will be possessed of units and those who will not, such arrangements to operate, as the case may be, between County Councils and County Borough Councils or between different County Borough Councils or different County Councils. [138]

3. It is proposed to offer allocation of a unit to the following Authorities :—*County Councils* : Essex, Lancashire, London, Middlesex, Northamptonshire, Staffordshire, Surrey : *County Borough Councils* : Birmingham, Bristol, Leeds, Liverpool, Manchester, Newcastle-on-Tyne, Norwich, Nottingham, Portsmouth, Sheffield. The order of allocation will be determined by the Minister in consultation with the Standing Advisory Committee on Tuberculosis. If for any reason any of the authorities named do not wish to accept the offer, the Ministry will allocate the set to another authority. Definite information cannot yet be given about delivery of the units, but the first should be available early in 1943, and it is hoped that delivery will be completed during the year. [139]

4. Arrangements are being made by the Ministry for training the necessary staff for the operation of the sets and a separate communication is being sent to authorities to whom offers are being made to advise them more fully as to the arrangements for operation and staffing. [140]

5. The Minister thinks it important to draw attention to the following extract from the Appendix to the Report of the Committee of the Medical Research Council which sets out the views of a Technical Sub-Committee :—“The Technical Sub-Committee wishes to emphasise that mass miniature radiography should not be lightly undertaken. A very high standard of quality of miniature radiograph is necessary for correct interpretation, and the latter requires the highest radiological skill. The making-up of compromise apparatus cannot be too strongly condemned, and would bring the method into disrepute.” In view of this opinion the Minister considers it very desirable that in a highly technical question such as miniature radiography the arrangements made should be of a standardised character, and that medical examination by this method should be carried out only with equipment of assured perfection. It is partly for this reason that he himself sought expert advice as to the specification to be adopted for the sets and took the initiative in ordering centrally a number of sets for use by Local Authorities, and that he has made arrangements for the training of staff for the operation of these sets. He hopes that as the sets become available arrangements to be made between Authorities will enable wide areas of the country to be covered and that Authorities who may not have a set directly allocated to them will not take the ill-advised course of seeking to act independently on other and unstandardised lines. [141]

6. The extended arrangements for diagnosis will mean some increase in the need for accommodation and the Minister recognises that in some parts of the country the supply of beds is not fully adequate to enable the authority to deal as promptly as they would wish with current cases. Arrangements are being made to allocate additional beds for tuberculosis to meet these needs, and where necessary this will be the subject of conference between the Principal Regional Medical Officer of the Ministry and the Medical Officer of Health. [142]

7. The Minister is aware that a number of sanatoria have been handicapped by difficulties in securing nursing and domestic staff adequate for their full use. The Minister has been in consultation with the Minister of Labour and National Service with a view to special attention to districts where the working of sanatoria is so hampered and account will be taken of the additional needs required to provide for further beds which can be made

available. Problems which arise in individual districts can appropriately be discussed with the Principal Regional Medical Officer. For domestic staff the general procedure indicated in Circular 2717 will be continued. A separate Circular is being issued as to the action to be taken in regard to nursing staff. [143]

8. When facilities for diagnosis and treatment are available it is important that those who give up work temporarily for treatment which is in the interest of the public health no less than their own should be able to do so without financial anxiety as to the maintenance of their dependants. It is of particular importance that treatment in accordance with the medical needs of the individual should be undertaken at the time when it is likely to lead to complete and speedy cure, and be continued for the period necessary, and therefore that the assistance provided should be approximately uniform throughout the country. [144]

9. Officers of the Department are conferring with representatives of Local Authorities with a view to the detailed working out of such a scheme. Particulars of this scheme will be circulated for the guidance of Local Authorities as soon as possible. It is proposed to frame it along the following general lines, and this provisional outline may enable Authorities to give advance consideration to their administrative arrangements in this connection. [145]

(1) Assistance should be made available for all persons who suffer loss or diminution of income through giving up their occupation while undergoing treatment for pulmonary tuberculosis approved by the Tuberculosis Authority, whether in an institution or at home, and who have one or more persons wholly or mainly dependent on them.

(2) The assistance should normally take the form of maintenance allowances payable in respect of the patient and his dependants, allowances being made in fixing the amount for the receipt of sickness or disablement benefit under the National Health Insurance Acts or for the fact that the patient is being treated in an institution.

(3) Assistance should also be available on application and on a discretionary basis towards meeting reasonable obligations, in excess of a prescribed figure, which the patient may have incurred, such as rent and rates, payments to Building Societies, hire-purchase of furniture, insurance policies, education of children.

(4) The administration of the maintenance allowances should be undertaken by the Tuberculosis Authority inasmuch as these allowances should be closely associated with and should indeed be regarded as forming part of the approved treatment by the Authority.

(5) The Authority should not make any charge in respect of the cost of treatment of pulmonary tuberculosis in an institution.

The Minister desires me to state that in view of the war-time importance of this service he will be prepared to reimburse to Local Authorities expenditure incurred by them on the payment of allowances indicated in (2) and (3) above in accordance with the approved scheme. [146]

I am, Sir, etc.

* * * *

DISEASES OF ANIMALS

See ANIMALS.

EDUCATION

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ORDERS, CIRCULARS AND MEMORANDA

ORDER IN COUNCIL . . . ADDING REGULATION 31BA TO THE DEFENCE (GENERAL) REGULATIONS, 1942

S. R. & O., 1942, No. 92

January 22, 1942

* * * * *

4. After Regulation thirty-one B of the principal Regulations there shall be inserted the following Regulation :—

“ 31BA.—(1) Where a child has been transferred from one area to another, whether under an evacuation plan or otherwise, and immediately before the transference—

(a) the child was attending as a day scholar a public elementary school or a school certified by the Board of Education under Part V of the Education Act, 1921, being in either case a school maintained by a local education authority for elementary education ; and

(b) a contribution in respect of that attendance was payable to the said authority under section one of the Education (Institution Children) Act, 1923, by the local education authority for elementary education of the area to which the child belonged (within the meaning of that Act) ;

then, as respects any period during which the child receives elementary education the cost of which involves a charge on the first-mentioned authority, that authority (and no other authority) shall be entitled to claim a contribution under the said section one from the authority of the said area, in like manner as if the conditions specified in subsection (1) of that section for the payment of such a contribution to that authority were fulfilled, and the said section shall have effect accordingly, subject to the modifications contained in the following provisions of this Regulation.

(2) In determining the amount of any payment under section one of the Education (Institution Children) Act, 1923, being a payment made after this Regulation comes into force, whether in pursuance of the foregoing paragraph or otherwise, for the references in subsection (1) of that section to the last preceding financial year there shall be substituted references to the financial year ending with the thirty-first day of March, nineteen hundred and thirty-nine.

(8) In determining for the purposes of section one of the Education (Institution Children) Act, 1923, to which area a child resident in a charitable institution is deemed to belong, any period during which the child was receiving elementary education, the cost of which involved a charge (not being a contribution under the said Act) on a local education authority for elementary education for an area other than that in which he was receiving the education, and any period during which the child would, if he were of a sufficient age, be receiving elementary education involving such a charge as aforesaid, shall be disregarded." [147]

* * * * *

SECONDARY SCHOOLS PROVISIONAL AMENDING REGULATIONS, 1942

P. R. & O., 1942

February 14, 1942

The Board of Education hereby certify under Section 2 of the Rules Publication Act, 1893, that on account of urgency the following Regulations should come into immediate operation, and accordingly they hereby make the following Regulations to come into operation forthwith as Provisional Regulations :—

1. The existing Regulations hereby amended are the Regulations for Secondary Schools, 1935, as amended by the Secondary Schools Amending Regulations No. 1, 1936, and No. 2, 1938, and by the Secondary Schools Provisional Amending Regulations, 1941. [148]

2. Where the Board of Education are satisfied that adequate and suitable arrangements are made for providing on the premises of a School receiving direct grant mid-day meals, at a charge approximately equal to the cost of the food furnished therein, for those day-pupils of the School whose parents wish them to partake of such meals, the Board may pay to the School for the period commencing with the 1st day of January 1942 and ending with the close of the present school year a special grant at the rate of three pence for every meal so provided. [149]

3. If any question arises as to the interpretation of these Regulations, or as to whether any of the requirements thereof are fulfilled, or as to the amount of any grant payable thereunder, the decision of the Board shall be final. [150]

4. These Regulations may be cited as the Secondary Schools Provisional Amending Regulations, 1942. [151]

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THE EDUCATION CODE PROVISIONAL AMENDING REGULATIONS, 1942

P. R. & O., 1942

June 4, 1942

The Board of Education hereby certify under Section 2 of the Rules Publication Act, 1893, that on account of urgency the following Regulations should come into immediate operation, and accordingly they hereby make the following Regulations to come into operation forthwith as Provisional Regulations :—

1. The existing Regulations hereby amended are the Regulations for Public Elementary Schools contained in the Education Code, 1926, as amended by the Education Code Amending Regulations No. 1, 1939.* [152]

2. The following Article is inserted after Article 11 of the existing Regulations :—

“ 11A. The employment of teachers during their first year's teaching service in any capacity in which they are conditionally recognised under Rule 9 of Schedule I hereof must be in accordance with approved arrangements.” [153]

3. The following Rule is added to Schedule I to the existing Regulations :—

“ 9.—(1) A person who, after having followed an approved course of education and professional training whether before or after the 31st July, 1942, receives recognition after that date as a teacher in any of the capacities aforesaid will, subject as in this Rule provided, be given recognition in that capacity only on the condition, additional to any conditions imposed by or under the foregoing Rules, that his first year's teaching service in that capacity is performed wholly within the Authority's area in which he is first employed after that date in that capacity or is serving on that date as the case may be :

Provided that a teacher who has performed a year's teaching service in the manner aforesaid as a condition of his recognition in one capacity shall not be required to perform any period of teaching service in that manner as a condition of his recognition in another capacity.

(2) The Board may recall or suspend the recognition of any teacher who fails to observe the condition aforesaid, and may, in exceptional circumstances, waive the condition or reduce the period of one year to some shorter period.

(3) For the purposes of this Rule, a teacher shall be deemed to be serving within the area of an Authority if, under arrangements made by that Authority, he is serving in some other area to which children from the first named area have been evacuated under an evacuation plan.” [154]

4. If any question arises as to the interpretation of these Regulations, or as to whether any of the requirements thereof are fulfilled, the decision of the Board shall be final. [155]

5. These Regulations may be cited as the Education Code Provisional Amending Regulations, 1942. [156]

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THE TRAINING OF TEACHERS SUPPLEMENTARY REGULATIONS, 1942

July 4, 1942

1. The Training Colleges to which these Regulations apply are those non-provided Training Colleges (other than any Training Department of a University or University College) which are recognised by the Board of Education under the Regulations for the Training of Teachers, 1941, for the whole or part of the academic year beginning on the 1st August, 1941. [157]

2. Where the Board of Education are satisfied that, in consequence of a decline in the number of students or of expenditure involved in transfer from one place to another, or of other circumstances arising out of the present war, a Training College to which these Regulations apply is unable to meet reasonable expenses of maintenance for the said academic year, the Board may pay to the Governing Body such additional grant (if any) as they think necessary for safeguarding the financial position of the College. [158]

3. Where, for reasons of economy or otherwise in consequence of war-time conditions, a Training College to which these Regulations apply is closed, and its recognition under the Regulations for the Training of Teachers, 1941, ceases from a date not later than the end of the said academic year, the Board may pay such additional grant (if any) as they think necessary to enable the College to meet liabilities outstanding at that date. [159]

4. If any question arises as to the interpretation of these Regulations, or as to whether any of the requirements thereof are fulfilled, or as to the amount of any grant payable thereunder, the decision of the Board shall be final. [160]

5. These Regulations may be cited as the Training of Teachers Supplementary Regulations, 1942. [161]

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THE ELEMENTARY EDUCATION GRANT PROVISIONAL AMENDING REGULATIONS, 1942

P. R. & O., 1942

July 9, 1942

The Board of Education hereby certify under Section 2 of the Rules Publication Act, 1893, that on account of urgency the following Regulations should come into immediate operation, and accordingly they hereby make the following Regulations to come into operation forthwith as Provisional Regulations :—

1. The existing Regulations hereby amended are the Elementary Education Grant Regulations, 1940, as amended by the Elementary Education Grant Amending Regulations No. 1, 1940, and by the Elementary Education Grant Provisional Amending Regulations, 1941, and the Elementary Education Grant Second Provisional Amending Regulations, 1941. [162]

2. The following Article is substituted for Article 5 of the existing Regulations :—

“5.—(1) The payment of the grant in full is conditional upon the Board being satisfied that the remuneration of teachers is such that no occasion arises for a deduction from the grant as in this Article provided.

(2) If any scales of remuneration in Schools provided or maintained by an authority are less than the recognised scales of salary where such scales are applicable together with any recognised war allowance, and if in the opinion of the Board the efficiency of the provision made for elementary education for the area is thereby endangered, the Board may make such deduction from the grant as will in their opinion secure that the expenditure by the authority falling to be met from the rates shall not be less than such expenditure would have been if the scales of remuneration in question had been in accordance with the recognised scales of salary together with recognised war allowance.

(3) For the purposes of this Article :—

- (a) the recognised scales of salary are those laid down in the Report dated the 14th October, 1938, of the Burnham Committee on Scales of Salaries for Teachers in Public Elementary Schools and in the Appendices thereto, subject to any subsequent modifications agreed by the Committee and approved by the Board ; and
- (b) recognised war allowance is the war allowance recommended by the joint meeting of the Burnham Committees on the 12th February, 1942, subject to any subsequent modifications agreed by the Committees and approved by the Board.” [163]

3. These Regulations may be cited as the Elementary Education Grant Provisional Amending Regulations, 1942. [164]

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THE HIGHER EDUCATION GRANT PROVISIONAL AMENDING REGULATIONS, 1942

P. R. & O., 1942

July 9, 1942

The Board of Education hereby certify under Section 2 of the Rules Publication Act, 1893, that on account of urgency the following Regulations should come into immediate operation, and accordingly they hereby make the following Regulations to come into operation forthwith as Provisional Regulations :—

1. The existing Regulations hereby amended are the Higher Education Grant Regulations, 1941. [165]

2. The following Article is substituted for Article 8 of the existing Regulations :—

“ 8.—(1) The payment of the grant in full is conditional upon the Board being satisfied that the remuneration of teachers is such that no occasion arises for a deduction from the grant as in this Article provided.

(2) If any scales of remuneration in Schools, whether provided by an Authority or not, in which the Authority accept responsibility for the scales of remuneration are less than the recognised scales of salary where such scales are applicable together with any recognised war allowance, and if in the opinion of the Board the efficiency of the provision made for higher education for the area is thereby endangered, the Board may make such deduction from the grant as will in their opinion secure that the expenditure by the Authority falling to be met from the rates shall not be less than such expenditure would have been if the scales of remuneration in question had been in accordance with the recognised scales of salary together with recognised war allowance.

(3) For the purposes of this Article :—

- (a) the recognised scales of salary are those laid down in the Reports dated the 22nd July, 1938, of the Burnham Committees on Scales of Salaries for Teachers in Secondary Schools and in Technical and Art Schools and in the Appendices thereto, subject to any subsequent modifications agreed by the respective Committees and approved by the Board ; and
- (b) recognised war allowance is the war allowance recommended by the joint meeting of the Burnham Committees on the 12th February,

1942, subject to any subsequent modifications agreed by the Committees and approved by the Board." [166]

3. These Regulations may be cited as the Higher Education Grant Provisional Amending Regulations, 1942. [167]

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THE TRAINING OF TEACHERS AMENDING REGULATIONS NO. 1, 1942

S. R. & O., 1942, No. 1711

August 25, 1942

1. The existing Regulations hereby amended are the Regulations for the Training of Teachers, 1941. [168]

2. The following sub-paragraph is substituted for sub-paragraph (i) of paragraph (a) of Article 15 of the existing Regulations :—

“(i) in the case of a female student commencing a course, other than a three-year course in a Training College for Domestic Subjects or a four-year course which includes work for a University Degree, be a person the eighteenth anniversary of whose birthday falls on or before the 31st December, or, in the case of a student commencing a three-year course aforesaid, be a person the seventeenth anniversary of whose birthday falls on or before the 31st March, or, in any other case, be a person the seventeenth anniversary of whose birthday falls on or before the 1st October, in the year of the student's admission to the College ;” [169]

3. These Regulations may be cited as the Training of Teachers Amending Regulations No. 1, 1942. [170]

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THE SCIENCE AWARDS AMENDING REGULATIONS NO. 1, 1942

September 21, 1942

1. The existing Regulations hereby amended are the Science Awards Regulations, 1936. [171]

2. Sub-paragraph (iii) of paragraph (b) of Article 3 of the existing Regulations shall have effect with the addition of the following proviso :—

“Provided that where the holder of an Award incurs additional costs of maintenance owing to the extension of the period of his attendance in any year, whether by the addition of a further term or by the lengthening of the normal terms, the Board may increase the aforesaid maximum yearly sum by such further sum, not exceeding £25, as they think fit.” [172]

3. If any question arises as to the interpretation of these Regulations, or as to whether any of the requirements thereof are fulfilled, or as to the amount of any grant payable thereunder, the decision of the Board shall be final. [173]

4. These Regulations may be cited as the Science Awards Amending Regulations No. 1, 1942. [174]

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THE STATE SCHOLARSHIPS AMENDING REGULATIONS NO. 2, 1942

September 21, 1942

1. The existing Regulations hereby amended are the State Scholarships Regulations, 1939, as amended by the State Scholarships Amending Regulations No. 1, 1941. [175]

2. Paragraph (a) of Article 5 of the existing Regulations shall have effect with the addition of the following proviso :—

“ Provided that where a Scholar incurs additional costs of maintenance owing to the extension of the period of his attendance in any year, whether by the addition of a further term or by the lengthening of the normal terms, the Board may increase the aforesaid maximum yearly sum by such further sum, not exceeding £25, as they think fit.” [176]

3. If any question arises as to the interpretation of these Regulations, or as to whether any of the requirements thereof are fulfilled, or as to the amount of any grant payable thereunder, the decision of the Board shall be final. [177]

4. These Regulations may be cited as the State Scholarships Amending Regulations No. 2, 1942. [178]

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THE TRAINING OF TEACHERS PROVISIONAL AMENDING REGULATIONS, 1942

P. R. & O., 1942

October 6, 1942

The Board of Education hereby certify under Section 2 of the Rules Publication Act, 1893, that on account of urgency the following Regulations should come into immediate operation, and accordingly they hereby make the following Regulations to come into operation forthwith as Provisional Regulations :—

1. The existing Regulations hereby amended are the Regulations for the Training of Teachers, 1941, as amended by the Training of Teachers Amending Regulations No. 1, 1942. [179]

2. Sub-paragraph (ii) of paragraph (b) of Article 21 of the existing Regulations shall have effect with the addition of the following proviso :—

“ Provided that where a student incurs additional costs of maintenance owing to the extension of the period of his attendance in any academic year, whether by the addition of a further term or by the lengthening of the normal terms, the Board, if they think fit, may for that year, pay an additional maintenance grant not exceeding one-third of the maintenance grant assessed as aforesaid.” [180]

3. If any question arises as to the interpretation of these Regulations, or as to whether any of the requirements thereof are fulfilled, or as to the amount of any grant payable thereunder, the decision of the Board shall be final. [181]

4. These Regulations may be cited as the Training of Teachers Provisional Amending Regulations, 1942. [182]

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ELECTIONS

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STATUTES

THE LOCAL ELECTIONS AND REGISTER OF ELECTORS
(TEMPORARY PROVISIONS) ACT, 1942

(5 & 6 Geo. 6, c. 38)

An Act to continue in force the Local Elections and Register of Electors (Temporary Provisions) Act, 1939, as amended by the Local Elections and Register of Electors (Temporary Provisions) Act, 1940, and the Local Elections and Register of Electors (Temporary Provisions) Act, 1941. [183]

[22nd October, 1942.]

1. Continuance of 2 & 3 Geo. 6, c. 115.—The Local Elections and Register of Electors (Temporary Provisions) Act, 1939, as amended by the Local Elections and Register of Electors (Temporary Provisions) Act, 1940, and the Local Elections and Register of Electors (Temporary Provisions) Act, 1941, shall continue in force until the thirty-first day of December, nineteen hundred and forty-three, and no longer, unless Parliament otherwise determines. [184]

For the Local Elections and Register of Electors (Temporary Provisions) Acts, 1939, 1940 and 1941, see 32 Statutes 1230, 33 Statutes 105, and 34 Statutes 90. The Act of 1939 was originally enacted to expire on December 31, 1940, and was extended and amended by the Acts of 1940 and 1941.

2. Short title.—This Act may be cited as the Local Elections and Register of Electors (Temporary Provisions) Act, 1942. [185]

ORDER IN COUNCIL ADDING REGULATION 7A TO, AND
AMENDING REGULATION 8 OF, THE DEFENCE
(WOMEN'S FORCES) REGULATIONS, 1941

S. R. & O., 1942, No. 1546

August 6, 1942

At the Court at Buckingham Palace, the 6th day of August, 1942.

PRESENT,

The King's Most Excellent Majesty in Council.

His Majesty, in pursuance of the Emergency Powers (Defence) Acts, 1939 and 1940, and of all other powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :—

1. After Regulation seven of the Defence (Women's Forces) Regulations, 1941, there shall be inserted the following Regulation :—

“7A. For the purposes of section five of the Representation of the People Act, 1918, and of sub-paragraph (2) of paragraph 13 of the Representation of

the People Order, the following women, that is to say, women of any of the classes specified in the Schedule to the National Service (No. 2) Act, 1941, and all such dental practitioners or members of Voluntary Aid Detachments, as are serving under the direction of the Admiralty, the Army Council or the Air Council, not being, in any case, women whose enrolment or other undertaking to serve was for part-time service only or for service without remuneration, shall be deemed to be members of the naval, military or air forces of the Crown serving on full pay." [186]

2. In Regulation eight of the said Regulations for the words "the two last preceding Regulations" there shall be substituted the words "Regulations six, seven and seven A of these Regulations".
[187]

ELECTRICITY SUPPLY

See also PUBLIC UTILITY UNDERTAKINGS.

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ORDERS, CIRCULARS AND MEMORANDA

AUTHORITY MADE BY THE BOARD OF TRADE IN RESPECT OF ELECTRICITY ACCOUNTS

S. R. & O., 1942, No. 169

January 29, 1942

The Board of Trade in pursuance of their powers under Directions dated the 1st April, 1941, made by the Minister of Transport and of all other powers them enabling hereby authorise any public utility undertaking (hereinafter called "the undertaking") for the supply of electricity, as mentioned in the Schedule to the said Directions, to supply copies of the accounts of the undertaking or of any report or other document relating to the operation of the undertaking which discloses information contained in those accounts to the following persons :—

- where the undertaking is carried on by a local authority, the members of that authority ;
- where the undertaking is carried on by a company, the directors of that company ;
- where the undertaking is that of the Central Electricity Board, the members of that Board ;
- where the undertaking is carried on by a Joint Board, or a Joint Electricity Authority, the members of such Board, or Authority, as the case may be.

Provided that any such copies of accounts, reports or other document as aforesaid shall each be clearly marked with a statement that it is confidential

and that it is not to be communicated to any person other than a member of such local authority, a director of such company, a member of the Central Electricity Board or a member of such Joint Board or Joint Electricity Authority, as the case may be. [188]

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THE CENTRAL ELECTRICITY BOARD (CIVIL DEFENCE) BORROWING REGULATIONS, 1942

S. R. & O., 1942, No. 1520

July 23, 1942

The Minister of Fuel and Power with the approval of the Treasury in pursuance of the powers conferred upon him by paragraph 3 (1) of the First Schedule to the Civil Defence Act, 1939, hereby makes the following Regulations :—

1. The Central Electricity Board (Civil Defence) Borrowing Regulations, 1940, shall have effect subject to the following amendments :—

(1) The following Article shall be substituted for Article 8 :—

“ Article 8.—(1) The Board may from time to time for the purpose of providing temporarily for any current expenses properly incurred by them under the Act borrow by way of temporary loan or overdraft from any bank or otherwise such sums as they may from time to time require.

Any amount so borrowed together with the interest thereon shall be repaid within a period of twelve months or such extended period as the Minister may allow.

(2) (a) The Board may, until provision can from time to time be made for raising money in any other manner provided by the Regulations, borrow temporarily for the purpose of any statutory borrowing power any sum or sums from any bank or otherwise on such terms, conditions and security and in such form as may be agreed.

(b) There shall be opened an account of the Electricity (Civil Defence) Fund to be entitled “ The Temporary Borrowing Redemption Account ” to which shall be carried such sum as shall in any accounting period be included for such purpose in estimates submitted to and approved by the Commissioners in pursuance of paragraph 6 (1) of the First Schedule to the Civil Defence Act, 1939, for or towards repaying any sum or sums temporarily borrowed under the aforesaid provisions of this paragraph.

(c) Any sum or sums temporarily borrowed shall be repaid :—

(i) either out of the moneys carried to the Temporary Borrowing Redemption Account in respect thereof or out of moneys duly raised in such other manner as aforesaid or partly out of moneys so carried to such account and partly out of moneys raised as aforesaid, as the Board may in any case decide ;

(ii) within a period of twelve months from the date of the temporary borrowing or such extended period as the Minister of Fuel and Power may allow.

(d) If and in so far as any moneys carried to the Temporary Borrowing Redemption Account in respect of any sum or sums

temporarily borrowed are not used for or towards the repayment thereof such moneys shall after such repayment forthwith be carried to the Redemption Fund Account relating to the security or class of security issued in respect of the moneys duly raised out of which such sum or sums temporarily borrowed have been repaid.

(e) Notwithstanding anything to the contrary contained in paragraph (c) (1) of this Article, any sum or sums temporarily borrowed prior to the twenty-third day of July, 1942, shall, if the lender so requires, be repaid wholly out of moneys duly raised in such other manner as aforesaid; in which event the moneys standing to the credit of the Temporary Borrowing Account which, but for such requirement, would have been applied for or towards such repayment shall be carried to the Redemption Fund Account relating to the security or class of security issued in respect of the moneys duly raised out of which such sum or sums temporarily borrowed have been repaid.

(3) The provisions of the Regulations as to borrowing and the repayment of money borrowed shall not apply to money borrowed under this Article".

- (2) The following paragraph shall be added to Article 24 after paragraph (3) thereof:—

"(3A) The amount of the sums to be carried to the Redemption Fund Account under the preceding paragraph of this Article shall be reviewed by the Board from time to time as may be necessary having regard to any moneys carried to such Account under the provisions of paragraph (2) (d) and (2) (e) of Article 8 of the Regulations." [189]

2. These Regulations may be cited as The Central Electricity Board (Civil Defence) Borrowing Regulations, 1942. [190]

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THE ELECTRICITY MINIMUM CHARGES ORDER AND GENERAL DIRECTION, 1942

S. R. & O., 1942, No. 1927

September 19, 1942

In pursuance of the powers conferred on him by Regulation fifty-six of the Defence (General) Regulations, 1939, and of all other powers enabling him in that behalf the Minister of Fuel and Power hereby orders and directs as follows:—

1. Where any electricity undertakers charge any consumer in respect of any supply of electricity by the actual amount of energy supplied to him and the authorised system of charge is one sum for any amount up to a given number of units supplied in a quarter and another sum for each additional unit supplied therein, then, in respect of electricity supplied after the commencing date, as hereinafter defined, the first mentioned sum shall not be charged but they shall charge him for each unit supplied and shall be entitled so to charge him at any rate not exceeding the maximum amount per unit which they are by or under any enactment authorised to charge such a consumer for units separately charged. [191]

2.—(1) If, in any such period as is mentioned in paragraph (2) of this Article, the total amount which would under the foregoing Article be charged

by the undertakers to a consumer is less than twenty-five shillings, the undertakers may make up the charge to twenty-five shillings or any less sum :

Provided that where the period in question is :—

- (i) more than six months but not more than nine months ; or
- (ii) more than three months but not more than six months ; or
- (iii) not more than three months,

this Article shall have effect as if the references to twenty-five shillings were references to eighteen shillings and ninepence in the first case, twelve shillings and sixpence in the second case and six shillings and threepence in the third case.

(2) The periods referred to are, in relation to a supply to any consumer, a period beginning with, or with any anniversary of, the commencing date, and ending with :—

- (a) the next anniversary of that date ; or
- (b) the termination of the supply ; or
- (c) the supply ceasing to be charged for by the actual amount of the energy supplied ;

whichever first occurs. [192]

3. In the foregoing provisions the expression “ the commencing date ” means, in relation to any supply to any consumer :—

- (a) if the supply is commenced after the date hereof, the date of the commencement of the supply ;
- (b) if the supply is at the date hereof charged for otherwise than by the actual amount of energy supplied, the date on which the supply first falls to be charged for by the actual amount of energy supplied ;
- (c) in any other case, the date on which the meter is first read after the date hereof. [193]

4. Where a supply is discontinued and subsequently recommenced, or after ceasing to be charged for by the actual amount of energy supplied is again so charged for, the foregoing provisions shall have effect as if a new supply were then commenced. [194]

5. Nothing herein contained affects any agreement for a minimum charge, being an agreement providing for the undertakers supplying apparatus or doing wiring or any similar work for the consumer without making a separate charge to him for the apparatus or work. [195]

6. The foregoing provisions shall, with the necessary adaptations, apply in relation to any supply charged for by the electrical quantity contained in the supply as they apply in relation to any supply charged for by the actual amount of energy supplied. [196]

7. This Order and General Direction shall come into force on the first day of October, 1942, and may be cited as the Electricity Minimum Charges Order and General Direction, 1942. [197]

* * * * *

CASES

Contract—Impossibility of performance—Supply of electricity for public lighting—Black-out—Contract containing composite provision for supply of current and other services—Provision for abatement in certain events, and “ from any other unavoidable cause over which the company has no control.”

Under three contracts, the respondent company agreed to supply electricity to the appellant council for street lighting purposes and to undertake

various duties in connection with the street lighting system. The respondent company was paid for these services quarterly at a fixed rate. The contracts provided that in the event of a failure of supply due to any "unavoidable cause" over which the respondent company had no control, the payments were to abate in the same proportion as the supply was curtailed. By the Lighting (Restrictions) Order, 1939, the display of lights in the streets was made unlawful from Sept. 1, 1939, and the appellant council thereupon ceased to consume the greater proportion of the current hitherto supplied by the respondent company. The respondent company continued to perform its duties under the contracts as respects the maintenance of the lighting system and was ready to put it into full operation at short notice. In the action, the respondent company sought to recover the quarterly payments due under the contracts, but the appellant council contended that the terms of the contracts entitled them to abate the price :—

Held: so far as the contracts put an obligation upon the respondent company to illumine the lamps every night, it had not fulfilled the contracts because it had become unlawful to do so. The supply of current within the meaning of the contracts ceased by reason of an unavoidable cause over which the company had no control, and the clause providing for abatement of payments came into operation. The company, therefore, were only entitled to payment for the services rendered and the small amount of current supplied for certain safety lighting.

Decision of CASSELS, J. ([1942] 1 All E. R. 674), *reversed*.—EGHAM & STAINES ELECTRICITY CO., LTD. *v.* EGHAM URBAN DISTRICT COUNCIL, [1942] 2 All E. R. 154; 167 L. T. 299; 106 J. P. 285; 58 T. L. R. 319; 40 L. G. R. 216, C. A. [198]

EVACUATION AND BILLETING

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ORDERS, CIRCULARS AND MEMORANDA

ORDER IN COUNCIL ADDING REGULATION 22A TO THE DEFENCE (GENERAL) REGULATIONS, 1939

S. R. & O., 1942, No. 381

March 5, 1942

* * * *

2.—(1) After Regulation twenty-two of the principal Regulations there shall be inserted the following Regulation :—

“ 22A.—(1) Where the Minister of Health is satisfied with respect to any area that the accommodation available in the area for billeting or lodging persons engaged in essential work and persons requiring to be accommodated with them is, having regard to all the circumstances of the area, insufficient, and he is satisfied that it is urgently necessary, for securing the public safety or the efficient prosecution of the war or for maintaining supplies or services essential to the life of the community, that provision should be made, for the

purpose of increasing the accommodation in the area available as aforesaid, for the removal of other persons, he may by order specify the area as an area in which the powers mentioned in the next succeeding paragraph are to be exercisable.

(2) At any time while an order made under the preceding paragraph is in force, a person acting under the authority of the Minister of Health or of a Regional Commissioner may, by notice served on any person whose removal from the area or from particular premises therein appears to him to be requisite for the purpose of enabling such persons as aforesaid to be billeted or lodged in the area or the premises, give a direction to that person prohibiting him from using any premises in the area or those premises, as the case may be, for sleeping or residential purposes on or after such date as may be specified in the direction except with permission granted by such authority or person as may be therein specified and subject to compliance with any conditions subject to which permission may be granted :

Provided that a direction under this paragraph shall not be given, for the purpose of enabling persons to be billeted on, or lodged with, any person, to any relative of that person.

In this paragraph the expression "relative" means a person within the following degrees of relationship, that is to say, husband or wife, parent, grandparent, child, grandchild, brother or sister, uncle or aunt, and nephew or niece, and includes the spouse or child of a relative.

(3) Any person aggrieved by a direction given to him under this Regulation may, subject to, and in accordance with, rules made by the Minister of Health, make a complaint to a tribunal constituted under paragraph (9) of Regulation twenty-two of these Regulations for the purpose of hearing complaints against billeting notices ; and upon hearing the complaint the tribunal may cancel or vary the direction as it thinks fit.

(4) The date specified as aforesaid in a direction given under this Regulation shall not be earlier than the expiration of the period limited by rules made under the last preceding paragraph for making a complaint against the direction ; and where a complaint is duly made the operation of the direction shall be suspended until the complaint has been disposed of.

(5) Any constable may take such steps and use such force as appear to him to be reasonably necessary for securing compliance with a direction duly given under this Regulation.

(6) A direction given under this Regulation may be revoked either by a person acting under the authority of the Minister of Health or of a Regional Commissioner by notice served on the person to whom the direction was given or by order made by or on behalf of the Minister of Health or a Regional Commissioner, but unless so revoked or cancelled under paragraph (3) of this Regulation shall remain in force so long as the order of the Minister specifying the area remains in force.

(7) A person who for any period is prevented by virtue of a direction given under this Regulation from using premises for sleeping or residential purposes shall not be liable to pay any periodical sum which would otherwise be payable in respect of that period for the use of the premises as aforesaid or for service, lighting, heating, board, use of furniture or otherwise in connexion therewith.

(8) The occupier of any premises in an area specified in an order made under paragraph (1) of this Regulation and for the time being in force shall, if requested so to do by a person acting under the authority of the Minister of Health or of a Regional Commissioner, furnish to such authority or person as may be specified in the request such information as may be so specified with respect to the accommodation contained in the premises and with respect to the persons using the premises for sleeping or residential purposes.

(9) In the application of this Regulation to Scotland, for any reference to the Minister of Health there shall be substituted a reference to the Secretary of State.

(10) This Regulation shall not extend to Northern Ireland."

(2) In the Third Schedule to the principal Regulations, after the entry relating to Regulation twenty-two there shall be inserted the following entry:—

"Regulation 22A. By or on behalf of the Minister of Health, a Regional Commissioner, or the local authority (other than a county council) in whose area the premises are situated in respect of which the proceedings are instituted."
[199]

* * * * *

ORDER IN COUNCIL AMENDING REGULATION . . . 31A . . . OF . . . THE DEFENCE (GENERAL) REGULATIONS, 1939

S. R. & O., 1942, No. 801

April 30, 1942

4.—(1) After paragraph (1) of Regulation thirty-one A of the principal Regulations the following paragraph shall be inserted:—

"(1A) Where, in the case of any child under the age of sixteen years who has been transferred under an evacuation plan and is not accompanied by a person otherwise responsible for his care, necessary clothing or footwear for the child has been provided, or necessary repairs to his clothing or footwear have been carried out, by or on the authority of the council of the county, county borough or county district from which he was so transferred, any expenses reasonably so incurred may be recovered by that council summarily as a civil debt from any person who was, at the time when they were incurred, liable to maintain the child."

(2) At the end of paragraph (4) of the said Regulation thirty-one A there shall be added the words—

"and

(c) paragraph (1A) shall not apply."

(3) At the end of paragraph (5) of the said Regulation thirty-one A there shall be added the words—

"and paragraph (1A) shall not apply to Northern Ireland."

[200]

* * * * *

ORDER IN COUNCIL AMENDING REGULATION . . . 31A . . . OF THE DEFENCE (GENERAL) REGULATIONS, 1939

S. R. & O., 1942, No. 1881

September 17, 1942

* * * * *

5. Paragraph (1A) of Regulation thirty-one A of the principal Regulations shall extend to Northern Ireland, and accordingly in paragraph (5) of that Regulation for the words "and paragraph (1A) shall not

- apply to Northern Ireland " there shall be substituted the words "and as if for any reference in paragraph (1A) to the council of the county, county borough or county district from which a child was transferred there were substituted a reference to the Ministry of Home Affairs for Northern Ireland." [201]

* * * * *

THE BILLETING (RATES OF PAYMENT) ORDER, 1942

S. R. & O., 1942, No. 723

April 11, 1942

103376.

The Minister of Health in the exercise of his powers under Regulation 22 (5) of the Defence (General) Regulations, 1939, hereby makes the following order —

1. This order may be cited as the Billeting (Rates of Payment) Order, 1942, and shall come into operation on the first day of May, 1942. [202]

2. The Interpretation Act, 1889, applies to the interpretation of this order as it applies to the interpretation of an Act of Parliament. [203]

3. The price payable in respect of accommodation furnished in any premises in accordance with a billeting notice shall, in the case of persons billeted as children for whom the occupier is required to provide board and lodging, be in accordance with the following scale :—

- (a) in the case of children under 5 years of age at the rate of 10s. 6d. a week where only one child is taken, and at the rate of 8s. 6d. a week in respect of each child under 5 years of age where more than one child, whether under 5 years of age or not, is taken ;
- (b) in the case of children who are 5 years of age or over but under 10 years of age at the rate of 10s. 6d. a week in respect of each child ;
- (c) in the case of children who are 10 years of age or over but under 12 years of age at the rate of 11s. a week in respect of each child ;
- (d) in the case of children who are 12 years of age or over but under 14 years of age at the rate of 12s. a week in respect of each child ;
- (e) in the case of children who are 14 years of age or over but under 16 years of age at the rate of 13s. a week in respect of each child ;
- (f) in the case of children who are 16 years of age or over but under 17 years of age at the rate of 15s. 6d. a week in respect of each child ;
- (g) in the case of children who are 17 years of age or over at the rate of 16s. 6d. a week in respect of each child. [204]

4. The order dated 23rd May, 1940, made by the Minister of Health under Regulation 22 (5) of the Defence (General) Regulations, 1939, shall cease to have effect. [205]

* * * * *

CASES

Emergency Legislation—Billeting—Service of billeting notice—Service by police constable in presence of billeting officer—Defence (General) Regulations, reg. 22.

A billeting notice under the Defence (General) Regulations, reg. 22, was prepared by the billeting officer and handed to the respondent by a police

constable in the presence of the billeting officer. On an information for failing to comply with the notice, the respondent contended that, since it had not been served by the billeting officer personally, the service of the notice did not comply with the regulation :—

Held : the notice was properly served upon the respondent.—HUMPHREYS *v.* TYLER, [1942] 1 K. B. 506 ; [1942] 1 All E. R. 585 ; 111 L. J. K. B. 337 ; 166 L. T. 325 ; 106 J. P. 126 ; 58 T. L. R. 238 ; 86 Sol. Jo. 132 ; 40 L. G. R. 148, D. C. [206]

EXPLOSIVES

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FACTORIES

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ORDERS, CIRCULARS AND MEMORANDA

THE FACTORIES (NOTIFICATION OF DISEASES) REGULATION, 1942

S. R. & O., 1942, No. 196

January 26, 1942

By virtue of the Defence (Functions of Ministers) Regulations, 1941, and sub-section (4) of section 66 of the Factories Act, 1937, the Minister of Labour and National Service hereby makes this regulation applying the provisions of the said section to toxic anaemia.

This regulation may be cited as the Factories (Notification of Diseases) Regulation, 1942, and shall come into operation on the 1st March, 1942.
[207]

* * * * *

FINANCE

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CASES

Income Tax—Local authority—Retention of tax deducted from interest payment—Separate undertakings—Whether excess of taxed income in one account can be set off against excess of interest payments in another account—Local Government Act, 1933 (c. 51), ss. 185, 194—South Shields Corporation Act, 1935 (c. xcvi), ss. 112–116.

By the South Shields Corporation Act, 1935, s. 112, all the receipts of the borough were carried into the general rate fund, out of which all its obliga-

tions were discharged. Sect. 113 of that Act required the corporation to keep separate accounts for its various undertakings, and sects. 114 and 115 of the same Act enabled the corporation to apply from the rate fund to specified purposes in connection with its undertakings a sum not exceeding the excess revenue, if any, earned by that undertaking. Sect. 116 of the Act repealed the existing statutory provisions governing the application of the revenues of the undertakings and the method of keeping their accounts. The accounts of the corporation for the year 1935-36 showed that, in the case of the electricity and transport undertakings, the total income exceeded the amount of the interest payments, and, in the case of the housing account, the taxed income was considerably less than the interest payments. Upon making the interest payments, income tax had been deducted and retained by the corporation, and, in so far as the interest payments had been made out of the taxed income the corporation would not have to account to the Inland Revenue for the sum retained. The corporation contended that, in the case of the housing account, in so far as the taxed income of that account was insufficient to meet the interest payments in respect of that account, it was entitled to say that such interest payments were made out of the excess of taxed income in the electricity and transport accounts, and supported this contention by the fact that all receipts had to be brought into the general rate fund, from which alone payments could be made :—

Held: the effect of s. 116 of the 1935 Act was to abolish all previously existing statutory regulations and restrictions as to the application of the surplus revenues of the undertakings. The obligation placed upon the appellants by the 1935 Act to keep separate accounts of each undertaking imposed no restriction on the appellants as to the way in which they are to deal with the profits of each undertaking, and there were no special circumstances in the relevant sections of the 1935 Act which would prevent the appellants from claiming that the interest must be treated as having been paid *pro tanto* out of their taxed income. The appellants were, therefore, entitled to say that the interest payments in respect of the housing account, in so far as the taxed income of that account was insufficient to meet them, were paid out of the excess of the taxed income of the electricity and transport accounts up to the amount of that excess.

Decision of LAWRENCE, J. ([1941] 3 All E. R. 322), *reversed*.—*ALLCHIN v. COULTHARD*, [1942] 2 K. B. 228; [1942] 2 All E. R. 39; 111 L. J. K. B. 609; 40 L. G. R. 207; *sub nom.* *ALLCHIN v. SOUTH SHIELDS CORPN.*, 167 L. T. 18; 106 J. P. 216; 58 T. L. R. 285, C. A. [208]

Income Tax—Capital or income—Costs of street works payable by instalments—Instalments including a sum for interest.

The defendants were the owners of certain private streets adjacent to the docks at Goole. The plaintiffs were the local authority responsible for the upkeep of the streets, and were desirous of taking over the private streets of the defendants. Before they took them over, however, they required certain repairs and works to be done in respect of those streets. The parties came to an agreement whereby the local authority undertook to do these repairs and the defendants were to repay the cost to the local authority by means of twenty annual payments of £600. After three payments had been made without deduction, the defendants deducted income tax at the standard rate from the later payments. It was contended that these payments were not in their nature such payments as were subject to deduction of tax. The actual cost of the works was £8,550 and the excess of the twenty annual payments over that figure would represent interest on the amount paid :—

Held: the defendants were not entitled to deduct income tax on the

whole of the annual payment, but only such part thereof as represented interest on the capital sum paid.—*GOOLE CORPN. v. AIRE AND CALDER NAVIGATION TRUSTEES*, [1942] 2 All E. R. 276; 167 L. T. 93; 106 J. P. 194; 58 T. L. R. 253; 86 Sol. Jo. 182; 40 L. G. R. 221, D. C. [209]

FIRE PROTECTION

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ORDERS, CIRCULARS AND MEMORANDA

ORDER IN COUNCIL AMENDING REGULATIONS . . . 26A, 27A, 27B . . . AND THE THIRD SCHEDULE TO, THE DEFENCE (GENERAL) REGULATIONS, 1939

S. R. & O., 1942, No. 801

April 30, 1942

* * * * *

- 2.—(1) In sub-paragraph (b) of paragraph (1) of Regulation twenty-six A of the principal Regulations after the word “premises” there shall

be inserted the words “ (including premises occupied by or for the purposes of a government department) ”.

- (2) After paragraph (6) of Regulation twenty-seven A of the principal Regulations the following paragraph shall be inserted :—

“(6A) The Secretary of State may by order provide—

- (a) for the making of arrangements for premises occupied by or for the purposes of a government department or by or for the purposes of any such institution or body of a public character as may be prescribed, for the purpose of securing that fires occurring at the premises as a result of hostile attack will be immediately detected and combated ;
- (b) for the application of the order, subject to any prescribed exemptions, to such premises or classes of premises as may be prescribed or to premises in such areas as may be prescribed ;
- (c) for enabling combined or joint arrangements to be made for several premises to which the order applies, being premises for which there is the same appropriate department or for which there are different appropriate departments, respectively ; and
- (d) for enabling joint arrangements to be made for several premises, some of which are premises to which the order applies and others are premises to which an order made under paragraph (1) of this Regulation applies, and for that purpose either excluding the last-named premises from the order made under the said paragraph (1) or extending that order to the first-named premises ;

and paragraphs (2), (3) and (3A) of this Regulation shall apply to any order made under this paragraph in like manner as they apply to orders made under paragraph (1) of this Regulation, subject to the modification that references to the occupiers of premises to which the order applies shall be construed as references to the appropriate departments for such premises, and paragraph (6) of this Regulation shall, in its application to an order made under this paragraph, have effect as if the reference to the appropriate authority were a reference to the appropriate department.”

- (3) In paragraph (7) of the said Regulation twenty-seven A, after the definition of the expression “ appropriate authority ” there shall be inserted the following definition :—

“ ‘ appropriate department ’, in relation to any premises, means such government department, authority or person as may be provided by an order made under this Regulation ; ”.

- (4) For paragraph (3) of Regulation twenty-seven B of the principal Regulations there shall be substituted the following paragraph :—

“(3) Where the local authority for an area in which premises to which an order made under Regulation twenty-seven A of these Regulations applies are situated is notified by the appropriate authority for the premises, or, in the case of premises to which an order made under paragraph (6A) of the said Regulation applies, by the Secretary of State, that proper and adequate arrangements for the premises cannot be made as required by the order without the assistance of the local authority, it shall be the duty of that local authority to provide such assistance, and the local authority may exercise control, to such extent (if any) as may be necessary, of any arrangements made for the premises in pursuance of the order, and any question arising as to the extent of the assistance to be provided or the extent of the control to be exercised by the local authority shall be finally determined by the Secretary of State, after consultation with the appropriate authority or the appropriate department, as the case may be, and the local authority.”

- (5) In the Third Schedule to the principal Regulations, there shall be inserted, after the words "appropriate authority" in the entry relating to Regulation twenty-seven A, the words "or appropriate department". [210]

* * * *

ORDER IN COUNCIL AMENDING REGULATION . . . 27A ... OF ... THE DEFENCE (GENERAL) REGULATIONS, 1939

S. R. & O., 1942, No. 961

May 22, 1942

* * * *

- 4.—(1) In paragraph (2) of Regulation twenty-seven A of the principal Regulations the words "British subjects" shall be omitted; and after sub-paragraph (c) of the said paragraph (2) there shall be inserted the following sub-paragraph:—

"(d) for prohibiting or restricting, in such cases or classes of cases as may be prescribed, the performance of fire prevention duties by persons who are not British subjects."

- (2) After paragraph (6A) of the said Regulation twenty-seven A the following paragraph shall be inserted:—

"(6B) The Secretary of State may by order make provision for extending, subject to such modifications, adaptations and exceptions as may be prescribed, any order made under paragraph (1) of this Regulation to buildings or classes of buildings the preservation of which appears to him to be in the public interest by reason of their historic or national character or otherwise.

[211]

* * * *

ORDER IN COUNCIL AMENDING REGULATION 27A OF THE DEFENCE (GENERAL) REGULATIONS, 1939

S. R. & O., 1942, No. 1279

July 1, 1942

2. In paragraph (6B) of Regulation twenty-seven A of the Defence (General) Regulations, 1939 (hereafter in this Order referred to as "the principal Regulations"), after the words "the preservation of which" there shall be inserted the words "or of the contents of which." [212]

* * * *

ORDER IN COUNCIL AMENDING REGULATIONS 26A, 27A, 27B AND 28A OF . . . THE DEFENCE (GENERAL) REGU- LATIONS, 1939

S. R. & O., 1942, No. 1442

July 23, 1942

* * * *

- 1.—(1) At the end of paragraph (1) of Regulation twenty-six A of the Defence (General) Regulations, 1939 (hereinafter referred to as the

“principal Regulations”), the following sub-paragraph shall be added :—

“(d) for securing that persons so enrolled for the performance of part time civil defence duties receive instruction and training with respect to such matters relating to those duties as may be specified in the order.”

- (2) In paragraph (3) of the said Regulation twenty-six A, after the words “their performance” there shall be inserted the words “and with any directions so given to him requiring his attendance at a specified time and place for the purpose of receiving instruction and training and with any directions so given to him in the course of the instruction and training”, and at the end of the said paragraph there shall be added the words “and, for the purpose of calculating the number of hours of duty required to be performed by any person, any period for which he is required to attend for instruction and training shall be included”.

- (3) At the end of paragraph (8) of the said Regulation twenty-six A, there shall be added the following words :—

“and for the purpose of this Regulation a person employed for the purposes of any business, trade or profession or for the purposes of a government department, being a person whose work is not performed at premises occupied for those purposes, shall—

- (i) if his employment normally requires him to attend at any such premises at the beginning or end of his daily period of work, be deemed to work at those premises ;
- (ii) if his employment does not require him to attend as aforesaid but requires him to report regularly at any such premises at least once a week, be deemed to work at those premises.”

- (4) After sub-paragraph (d) of paragraph (2) of Regulation twenty-seven A of the principal Regulations, the following sub-paragraph shall be inserted :—

“(e) for securing that persons performing fire prevention duties under arrangements made under the order receive instruction and training with respect to such matters relating to those duties as may be specified in the order” ;

and at the end of the said paragraph (2) there shall be added the words “and with any directions given to him in accordance with the order requiring him to attend at a specified time and place for instruction and training and with any directions so given to him in the course of the instruction and training”.

- (5) After paragraph (2) of the said Regulation twenty-seven A, the following paragraph shall be inserted :—

“(2A) Any such order may provide that, if a fire occurs otherwise than as a result of hostile attack at premises for which arrangements are made under the order, any person then performing fire prevention duties at the premises under the arrangements shall, on the detection of the fire, take such steps as are immediately practicable to combat the fire and shall summon such assistance as may be necessary.”

- (6) In sub-paragraph (a) of paragraph (3A) of the said Regulation twenty-seven A, after the words “the said requirement” there shall be inserted the words “or attending outside their working hours for instruction and training relating to those duties, and of travelling expenses to persons attending during their working hours for such instruction and training”, and at the end of the said sub-paragraph

there shall be added the words "or for attendance outside his working hours for such instruction and training"; and at the end of sub-paragraph (d) of the said paragraph (3A) there shall be added the words "and, for the purpose of calculating the said aggregate periods in the case of any person, any period for which he is required to attend outside his working hours for instruction and training shall be included".

(7) In paragraph (6A) of the said Regulation twenty-seven A, after the words "paragraphs (2)" there shall be inserted the word "(2A)".

(8) In paragraph (7) of the said Regulation twenty-seven A, after the words "for the purpose of this Regulation" there shall be inserted the words :—

"(a) a person employed for the purposes of any business, trade or profession or for the purposes of a government department, being a person whose work is not performed at premises occupied for those purposes, shall—

(i) if his employment normally requires him to attend at any such premises at the beginning or end of his daily period of work, be deemed to work at those premises ;

(ii) if his employment does not require him to attend as aforesaid but requires him to report regularly at any such premises at least once a week, be deemed to work at those premises ;

(b)".

(9) After paragraph (2) of Regulation twenty-seven B of the principal Regulations, the following paragraph shall be inserted :—

"(2A) Where any person enrolled by a local authority for the performance of fire prevention duties is performing those duties and a fire occurs otherwise than as a result of hostile attack, he shall, on the detection of the fire, take such steps as are immediately practicable to combat the fire and shall summon such assistance as may be necessary."

(10) In paragraph (5) of the said Regulation twenty-seven B, after the word "Regulation" there shall be inserted the words "the expression 'fire prevention duties' has the same meaning as in Regulation twenty-seven A of these Regulations, and." [213]

2.—(1) In Regulation twenty-eight A of the principal Regulations for the words "fire brigades" there shall be substituted the words "the National Fire Service" and at the end of that Regulation there shall be added the following words :—

"as applied under the Fire Services (Emergency Provisions) Act, 1941, and subsection (2) of section fourteen of the Fire Brigades Act, 1938, as so applied shall have effect as if the reference therein to a member of the National Fire Service included a reference to any person on whom powers are conferred by virtue of an order under this paragraph.

(2) The Secretary of State may by order provide for extending subsection (7) of section two and subsection (3) of section fourteen of the Fire Brigades Act, 1938, as so applied (which confer powers in relation to water for extinguishing fires), or either of those subsections specified by the order, to such fire-fighting organisations as may be specified by or under the order, and each of those subsections shall have effect as if any reference therein to the National Fire Service included a reference to any organisation to which it is extended by virtue of an order under this paragraph."

- (2) Any order having effect under the said Regulation twenty-eight A which is in force at the making of this Order shall continue in force and have effect as an order under paragraph (1) of that Regulation as amended by this Order. [214]

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ORDER IN COUNCIL AMENDING REGULATION . . . 27B ... OF THE DEFENCE (GENERAL) REGULATIONS, 1939

S. R. & O., 1942, No. 1881

September 17, 1942

3.—(1) . . .

- (2) At the end of paragraph (5) of Regulation twenty-seven B of the principal Regulations, there shall be added the words “and, for the purposes of this Regulation, the Inner Temple and the Middle Temple shall be deemed to be in the area of the Common Council of the City of London.” [215]

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ORDER IN COUNCIL AMENDING REGULATION 27A . . . OF THE DEFENCE (GENERAL) REGULATIONS, 1939

S. R. & O., 1942, No. 2277

November 5, 1942

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1. After paragraph (6A) of Regulation twenty-seven A of the Defence (General) Regulations, 1939, the following paragraph shall be inserted :—

“(6AA) Any provisions of an order made under paragraph (1) or (6A) of this Regulation, being provisions relating to persons working at premises to which the order applies, may, subject to such adaptations and modifications as may be specified in the order, be applied in relation to persons who are required by a local authority, in pursuance of its duty under paragraph (3) of Regulation twenty-seven B of these Regulations, to perform duties under arrangements in force for those premises.” [216]

* * * *

ORDER IN COUNCIL . . . ADDING REGULATION 28B . . . TO THE DEFENCE (GENERAL) REGULATIONS, 1939

S. R. & O., 1942, No. 2403

November 24, 1942

1. After Regulation twenty-eight A of the Defence (General) Regulations, 1939, there shall be inserted the following Regulation :—

“28B. Except for the purpose of preserving life or property, no unauthorised person shall—

- (a) throw, put or pour anything into any water stored on behalf of His Majesty for the purpose of fighting fires ;

- (b) climb into, on or over any tank used for storing water as aforesaid ;
- (c) interfere with any pipes, valves or other apparatus used or intended for use on behalf of His Majesty for the purpose of fighting fires ”.

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THE NATIONAL FIRE SERVICE (GENERAL) REGULATIONS, 1942

S. R. & O., 1942, No. 69

January 14, 1942

In pursuance of the powers conferred upon me by the Fire Services (Emergency Provisions) Act, 1941, as amended by the Defence (National Fire Service) Regulations, 1941, I hereby make the following Regulations :—

1. At the end of Regulation 1 of the National Fire Service (General) Regulations, 1941, there shall be added the following paragraph :—

“(3) Any reference in any document to these Regulations or to any of them shall, unless the contrary intention appears, be construed as a reference to these Regulations or to that Regulation, as amended by any subsequent Regulations made under the Fire Services (Emergency Provisions) Act, 1941, either as originally enacted or as amended by Defence Regulations ”. [218]

2. At the end of Regulation 3 (2) of the National Fire Service (General) Regulations, 1941, there shall be added the following sub-paragraph :—

“(c) on the construction or improvement of buildings or works in Great Britain used or intended for the purposes of the National Fire Service or for other civil defence purposes or on work for forestalling or mitigating the effects of enemy action ”. [219]

3. Paragraphs (2) and (3) of Regulation 7 of the National Fire Service (General) Regulations, 1941, shall be amended—

(a) by the substitution for the words “ the first six months of his service ” in the proviso to each of those paragraphs of the words “ his period of probation ” ;

(b) by the addition at the end of the said paragraph (2) of the following words :—

“ In this paragraph ‘ period of probation ’ means, in relation to a fireman’s service in any rank, the first six months of that service together with such further period or periods (not exceeding in all a further twelve months) as may at any time before the end of his period of probation be added thereto by direction of any person having for the time being power under this paragraph to reduce him from that rank ” ;

(c) by the addition at the end of the said paragraph (3) of the following words :—

“ In this paragraph ‘ period of probation ’ means in relation to any fireman, the first six months of his service, together with such further period or periods (not exceeding in all a further twelve months) as may at any time before the end of his period of probation be added thereto by direction of any person who has for the time being power under this paragraph to discharge him, or, in a case to which Regulation 10 (4) of these Regulations applies, would with the consent of the Secretary of State have that power ”. [220]

4. Paragraph (4) of Regulation 10 of the National Fire Service (General) Regulations, 1941, shall be amended by the omission of the words from the beginning of that paragraph to the words "these Regulations". [221]

5. These Regulations may be cited as the National Fire Service (General) Regulations, 1942. [222]

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THE NATIONAL FIRE SERVICE (GENERAL) (NO. 2) REGULATIONS, 1942

S. R. & O., 1942, No. 125

January 22, 1942

In pursuance of the powers conferred upon me by the Fire Services (Emergency Provisions) Act, 1941, as amended by the Defence (National Fire Service) Regulations, 1941, I hereby make the following Regulations:—

1. At the end of Regulation 2 of the National Fire Service (General) Regulations, 1941, there shall be added the following paragraph:—

"(5) In these Regulations 'Regional Commissioner' means a person appointed by His Majesty to be a Regional Commissioner or deputy Regional Commissioner for the co-ordination of measures of civil defence. 'Region' means a civil defence region as defined by the Defence (General) Regulations, 1939, and anything which is required to be done in relation to any Region for the purposes of these Regulations by, to or before the Regional Commissioner shall be done by, to or before the Regional Commissioner assigned to that Region under the Defence (General) Regulations, 1939, or, if more than one Regional Commissioner has been so assigned to the Region, by, to or before any one of the Regional Commissioners so assigned thereto". [223]

2. In Regulation 8 (2) and Regulation 8 (4) of the National Fire Service (General) Regulations, 1941, the word "whole-time" shall be omitted, and at the end of each of those paragraphs there shall be added the following proviso:—

"Provided that this paragraph shall not apply to a part-time fireman who has not attained the age of eighteen years". [224]

3. After Regulation 8 (4) of the National Fire Service (General) Regulations, 1941 there shall be inserted the following paragraph—

"(4A) Notwithstanding anything in this Regulation, where—

- (a) a part-time fireman receives a direction under Regulation 58A of the Defence (General) Regulations, 1939, and
- (b) in order that he may be able to comply with that direction, it is necessary that he should go to live at a different place, and
- (c) the place to which he goes to live is so situated in relation to the places to which he is, as such part-time fireman, under an obligation to go, that it is not reasonably practicable that he should continue as a part-time fireman subject to that obligation,

he shall, as from the date when he goes to live at that place, cease to be a member of the National Fire Service". [225]

4. These Regulations may be cited as the National Fire Service (General) (No. 2) Regulations, 1942. [226]

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THE NATIONAL FIRE SERVICE (GENERAL) (NO. 3) REGULATIONS, 1942

S. R. & O., 1942, No. 883

May 8, 1942

In pursuance of the powers conferred upon me by the Fire Services (Emergency Provisions) Act, 1941, as amended by the Defence (National Fire Service) Regulations, 1941, I hereby make the following Regulations :—

1. On the coming into force of these Regulations Fire Area 33 shall be divided into five Fire Areas to be numbered 34, 35, 36, 37 and 38, for each of which there shall be a separate Fire Force with a separate Fire Force Commander, and the boundaries between the said five Fire Areas shall be such as the Secretary of State may from time to time determine; and accordingly in Part I of the First Schedule to the National Fire Service (General) Regulations, 1941, under the heading "Region 5" for the words "Fire Area 33", in the first place where that heading occurs, there shall be substituted the words "Fire Areas 34 to 38" and, in the second place where that heading occurs, there shall be substituted the words :—

" Fire Areas 34 to 38.

(Boundaries between Fire Areas to be determined from time to time by the Secretary of State) ". [227]

2. After Regulation 19 of the National Fire Service (General) Regulations, 1941, there shall be inserted the following Regulation :—

" 20. These Regulations shall in their application to the London Area (that is to say, the Area comprised in Fire Areas 34 to 38) have effect subject to the modifications set out in the Fifth Schedule to these Regulations ". [228]

3. At the end of the National Fire Service (General) Regulations, 1941, there shall be added as a Fifth Schedule the provisions set out in the Schedule to these Regulations. [229]

4.—(1) Any member of the National Fire Service who, immediately before the coming into force of these Regulations, was a member of the Fire Force for Fire Area 33 shall, by virtue of these Regulations and without more, become a member of the Fire Force for Fire Area 34, 35, 36, 37 or 38 according to the place at which he is stationed on the coming into force of these Regulations, or, if he is then temporarily posted elsewhere or suspended from duty, at which he was last stationed before that date :

Provided that—

(a) such of the said members as were serving on or in connection with the fire-fighting craft on the river Thames shall become members of the River Thames Formation, and such of the said members as were serving as part of the headquarters establishment of the Fire Force for Fire Area 33 shall become members of the London Headquarters Formation ;

(b) this paragraph has effect subject to any appointments or transfers which were made before the coming into force of these Regulations but so as to come into effect on or after the coming into force thereof.

(2) Where any fireman transferred by this Regulation had, before his transfer, committed any offence against discipline, any proceedings for that offence commenced before the transfer under Part II of the Second Schedule

to the National Fire Service (General) Regulations, 1941, may be carried on as if these Regulations had not been made.

(3) Any notice served before the coming into force of these Regulations under the National Service Act, 1941, requiring a person to present himself after the coming into force of these Regulations at any place to the Fire Force Commander for the Fire Force for Area 33 shall have effect as if it had required him to present himself there to the Fire Force Commander for Fire Area 34, 35, 36, 37 or 38 according to the Area in which that place is.

(4) The expression "the certifying authority" in any Regulations under the Fire Services (Emergency Provisions) Act, 1941, relating to the preservation of pensions and other similar matters, shall, in relation to a person who ceased to be a member of the National Fire Service before the coming into force of these Regulations and when he so ceased was a member of the Fire Force for Fire Area 33, mean such officer as the Secretary of State may depute.

(5) Any reference in this Regulation to any Act shall be construed as a reference to that Act as amended by or under any other Act. [280]

5. The Interpretation Act, 1889, applies for the interpretation of these Regulations as it applies for the interpretation of an Act of Parliament. [281]

6.—(1) These Regulations may be cited as the National Fire Service (General) (No. 3) Regulations, 1942.

(2) These Regulations shall come into force on the first day of June, 1942. [232]

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SCHEDULE

FIFTH SCHEDULE

APPLICATION OF REGULATIONS TO LONDON AREA

1.—(1) There shall be for the London Area an officer holding the rank of Chief Fire Commander and having seniority of rank immediately above a Chief Regional Fire Officer, and the Fire Force Commanders for the London Fire Forces shall (without prejudice to the powers of the Regional Commissioner and the Secretary of State) be subject to the direction of the Chief Fire Commander.

(2) The Chief Fire Commander shall himself be subject to the direction of the Regional Commissioner and the Secretary of State.

(3) There shall be no Chief Regional Fire Officer for Region 5 and it shall be part of the duties of the Chief Fire Commander to perform, on behalf of and subject to the direction of the Regional Commissioner, such functions, being functions for the time being exercisable by the Regional Commissioner in relation to the National Fire Service, as the Regional Commissioner may require him to perform.

(4) The functions of the Regional Commissioner under paragraph 11 of Part II of the Second Schedule to these Regulations shall, as respects members of the London Fire Forces, be functions of the Chief Fire Commander, and accordingly in the said paragraph 11 for references to the Regional Commissioner there shall, in relation to members of those Forces, be substituted references to the Chief Fire Commander.

(5) Without prejudice to the powers conferred on the Secretary of State by Regulation 7 (4) of these Regulations, a fireman in any of the London Fire Forces may be transferred to another of those Forces by the Chief Fire Commander.

(6) The Chief Fire Commander may exercise in relation to any fireman who is a member of a London Fire Force or is attached to a London Fire Force the powers which, under Part III of the Second Schedule to these Regulations, are exercisable in relation to him by the Fire Force Commander of that Fire Force.

(7) Paragraphs (3) to (5) of Regulation 4 of these Regulations shall apply to the Chief Fire Commander as they apply to Fire Force Commanders.

2.—(1) In addition to the five Fire Forces there shall be :—

- (a) the River Thames Formation to serve on and in connection with the fire-fighting craft on the river Thames ; and
- (b) the London Headquarters Formation, consisting of the Headquarters establishment of the Chief Fire Commander,

each of which shall be in the charge of an officer appointed for the purpose.

(2) These Regulations shall, subject to the necessary modifications of paragraph (2) (a) to (d) of Regulation 4, apply in relation to each of the said Formations as if it were one of the London Fire Forces and as if the officer in charge of the Formation (whatever his rank) were the Fire Force Commander in command of that Force.

3. The reference in the proviso to Regulation 8 (1) of these Regulations to a part-time fireman's own Fire Area shall, in relation to a part-time fireman in any of the London Fire Forces, have effect as if it were a reference to the whole London Area. [233]

THE NATIONAL FIRE SERVICE (GENERAL) (NO. 4) REGULATIONS, 1942

S. R. & O., 1942, No. 987

May 20, 1942

In pursuance of the powers conferred upon me by the Fire Services (Emergency Provisions) Act, 1941, as amended by the Defence (National Fire Service) Regulations, 1941, I hereby make the following Regulations :—

1. In Regulation 3 (2) of the National Fire Service (General) Regulations, 1941, at the end of sub-paragraph (c) there shall be inserted the words “ or on any other work for any government department or connected with the performance of their functions by any local authority or harbour authority or with the performance by any undertakers of essential services ”, and at the end of the said Regulation there shall be inserted the following sentence :—

“ In this paragraph the expression ‘ undertakers ’ means the persons carrying on any public utility undertaking or any undertaking by way of any trade or business, and the expressions ‘ local authority ’, ‘ harbour authority ’, and ‘ public utility undertaking ’ have the same meanings as in the Defence (General) Regulations, 1939 ”. [234]

2. After Regulation 7 of the National Fire Service (General) Regulations, 1941, there shall be inserted the following Regulation :—

“ 7A.—(1) A whole-time fireman may be placed on reserve, either for a specified period or indefinitely, by the person having power to discharge him, and a fireman on reserve may be recalled to whole-time service, either for a specified period or indefinitely, by the person having the said power.

(2) Subject to the provisions of this Regulation, a fireman on reserve shall retain the rank which he held, and shall remain a member of the Fire Force (if any) of which he was a member, immediately before he was placed on reserve, but shall not, while on reserve, have any of the powers or duties of a member of the National Fire Service or be entitled to pay, or to any other rights or privileges, as such a member :

Provided that nothing in this paragraph shall relieve a fireman on reserve of any liability for disobedience to an order recalling him to whole-time service or to any orders given to him by or on behalf of the person having power to discharge him as to the notification of his address or of the nature and place of his employment or business.

(3) A fireman on reserve may be required by the person having power to discharge him to perform the duties of a part-time fireman in any Fire Force, and subject to the provisions of this Regulation, these Regulations shall apply to him in relation to the performance of those duties as if he were a part-time fireman in that Fire Force :

Provided that the proviso to Regulation 8 (1), Regulation 8 (4A), and the proviso to Regulation 12 (4) of these Regulations shall not apply.

(4) Paragraphs (2) and (3) and, with the exception of sub-paragraph (b), paragraph (4) of Regulation 7 of these Regulations, shall apply to a fireman on reserve (whether or not he is required to perform part-time duties) as if he were not on reserve.

(5) In this Regulation references to the person having power to discharge a fireman shall be construed as references to any person who would with his consent or, in a case to which Regulation 10 (4) of these Regulations applies, with that of the Secretary of State have for the time being power under Regulation 7 of these Regulations to discharge him ". [235]

3.—(1) The Pensions Regulations shall, subject to the provisions of this Regulation, apply in relation to a whole-time fireman on reserve as they apply in relation to a whole-time fireman not on reserve.

(2) A fireman to whom any of the Pensions Regulations, other than the National Fire Service (Preservation of Pensions) (General Pension Funds) Regulations, 1941, apply shall, for the purposes of—

- (a) section one of the Police and Firemen (War Service) Act, 1939, as amended or extended by or under any enactment (where that Act applies) ;
- (b) the reckoning of approved service ;
- (c) the making of rateable deductions and contributions towards pension or payments in lieu of such deductions or contributions ; and
- (d) the payments required or authorised to be made to his widow and children in the event of his death while on reserve from injuries received while on reserve, otherwise than in the performance of duties as a member of the National Fire Service,

be deemed, in relation to any period for which he is on reserve,—

- (i) to have ceased, when placed on reserve, to serve in the National Fire Service in order to be engaged in war work ; and
- (ii) to be so engaged throughout that period :

Provided that, in the case of a fireman to whom the National Fire Service (Preservation of Pensions) (Act of 1925) Regulations, 1941, apply, the reference in sub-paragraph (d) of this paragraph to injuries received shall be deemed to include a reference to a disease contracted.

(3) A fireman to whom the National Fire Service (Preservation of Pensions) (General Pension Funds) Regulations, 1941, apply, shall, for the purposes of—

- (a) section one of the Local Government Staffs (War Service) Act, 1939, and
- (b) the making of contributions to a superannuation or other fund,

be deemed, in relation to any period for which he is on reserve—

- (i) to have ceased when placed on reserve to serve in the National Fire Service in order to undertake war service, and
- (ii) to be engaged in war service throughout that period ;

and, in relation to any period for which such a fireman is on reserve, references in the definition of " war service pay " in section fourteen of the said Act

to his war service shall be construed as including any employment in which he is during that period.

(4) In this Regulation the expression "the Pensions Regulations" means the National Fire Service (Preservation of Pensions) (Act of 1925) Regulations, 1941, the National Fire Service (Preservation of Pensions) (General Pension Funds) Regulations, 1941, the National Fire Service (Preservation of Pensions) (Police Firemen) Regulations, 1941, the National Fire Service (Preservation of Pensions) (London and West Ham) Regulations, 1941, The National Fire Service (Preservation of Pensions) (Birmingham and Leicester) Regulations, 1941, and the National Fire Service (Preservation of Pensions) (Bolton and Derby) Regulations, 1941. [236]

4.—(1) In paragraph 1 (1) of the Third Schedule to the National Fire Service (General) Regulations, 1941, for the entries in the scale of pay relating to a Section Leader, Leading Fireman and Fireman aged twenty or over there shall be substituted the following entries :—

	Per week.		
	£	s.	d.
" Section Leader	5	19	0
Leading Fireman	4	4	0
Fireman, aged twenty or over	3	14	0 "

(2) In paragraph 1 (2) of the said Third Schedule for the entry in the scale of pay relating to an Assistant Group Officer and the subsequent entries there shall be substituted the following entries :—

	Per week.		
	£	s.	d.
" Assistant Group Officer	3	5	0
Leading Firewoman	2	19	0
Firewoman, aged twenty or over	2	12	0
„ aged eighteen to twenty	2	7	0 "

[237]

5. The Interpretation Act, 1889, applies for the interpretation of these Regulations as it applies for the interpretation of an Act of Parliament. [238]

6. These Regulations may be cited as the National Fire Service (General) (No. 4) Regulations, 1942. [239]

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THE NATIONAL FIRE SERVICE (GENERAL) (NO. 5) REGULATIONS, 1942

S. R. & O., 1942, No. 1848

September 4, 1942

In pursuance of the powers conferred upon me by the Fire Services (Emergency Provisions) Act, 1941, I hereby make the following Regulations :—

1. For paragraphs (2) and (3) of Regulation 7 of the National Fire Service (General) Regulations, 1941, there shall be substituted the following paragraphs :—

" (2) A fireman may be promoted—

(a) whether or not he is a member of a Fire Force, to any rank by the Secretary of State ;

(b) if he is a member of a Fire Force—

- (i) to be Divisional Officer, Column Officer, Senior Area Officer or Assistant Area Officer, by the Regional Commissioner ; and
- (ii) to any rank below that of Column Officer or Assistant Area Officer, by the Fire Force Commander ; and

(c) if he is not a member of a Fire Force, to such rank as may from time to time be designated by the Secretary of State in relation to any particular case or class of cases by such person as may be so designated,

and any power conferred by this paragraph to promote to any rank includes a power to reduce from that rank to any lower rank :

Provided that no fireman shall be reduced from any rank under this paragraph except with his own consent or during his period of probation in that rank or on conviction of a criminal offence (including an offence against Regulation 8 (2) of these Regulations).

In this paragraph 'period of probation' means, in relation to a fireman's service in any rank, the first six months of that service together with such further period or periods (not exceeding in all a further twelve months) as may at any time before the end of his period of probation be added thereto by a direction (which may be revoked by a subsequent direction) of any person having for the time being power under this paragraph to reduce him from that rank.

(2A) The promotion of a fireman to any rank may be expressed to be temporary only, and, if expressed to be temporary, may (without prejudice to any power conferred by these Regulations to reduce him from that rank) be cancelled at any time by any person having power to promote firemen to that rank under paragraph (2) of this Regulation ; and for the purposes of the said paragraph (2) a fireman's period of probation in any rank shall not include service in that rank by virtue of a temporary promotion under this paragraph, but any such service shall be disregarded in calculating the said period.

(3) Any member of the National Fire Service may be discharged by the Secretary of State, and firemen in any Fire Force may also be discharged—

- (a) in the case of Divisional Officers, Column Officers, Senior Area Officers and Assistant Area Officers, by the Regional Commissioner ; and
- (b) in the case of ranks below Column Officer or Assistant Area Officer, by the Fire Force Commander ;

Provided that—

- (i) a member of a Fire Force who has not attained the age of sixty shall not be discharged by the Regional Commissioner without the concurrence of the Secretary of State, or by the Fire Force Commander without the concurrence of the Regional Commissioner, except with his own consent, or, in the case of a member other than a member transferred to the National Fire Service by virtue of these Regulations, during his period of probation ; and
- (ii) nothing in this paragraph affects the provisions of the Second Schedule to these Regulations relating to dismissal for disciplinary offences.

In this paragraph 'period of probation' means, in relation to any fireman, the first six months of his service together with such further period or periods (not exceeding in all a further twelve months) as may

at any time before the end of his period of probation be added thereto by a direction (which may be revoked by a subsequent direction) of any person who has for the time being power under this paragraph to discharge him, or, in a case to which Regulation 10 (4) of these Regulations applies, would with the consent of the Secretary of State have that power". [240]

2. After paragraph (4A) of Regulation 8 of the said Regulations there shall be inserted the following paragraph :—

"(4B) A fireman shall, by virtue of this Regulation and without more, be suspended from duty during any period of penal servitude, imprisonment or detention in a Borstal institution". [241]

3.—(1) In paragraph 3 of Part II of the Second Schedule to the said Regulations for the words "(2) The accused shall" there shall be substituted the word "and".

(2) In sub-paragraph (1) of paragraph 7 of the said Part II for the words "Divisional Officer" there shall be substituted the words "Column Officer".

(3) At the end of paragraph 7 of the said Part II there shall be inserted the following sub-paragraph :—

"(4) Where it appears to the officer or board by whom any case is being heard under this paragraph that for any reason it may be desirable that the case should be heard by the Fire Force Commander, the officer or board shall so inform the Fire Force Commander and the Fire Force Commander may direct either that the hearing shall be recommenced before him or that it shall be continued before the officer or board".

(4) For paragraph 11 of the said Part II there shall be substituted the following paragraph :—

"11. The foregoing provisions of this Part of this Schedule shall have effect, in relation to offences committed by a fireman in a Fire Force while he is stationed at a Reserve Station or other station established for the purpose of providing reinforcements or training, as if references therein to the Fire Force Commander included references to the officer in the National Fire Service in command of the station :

Provided that—

(a) no punishment shall be imposed by any such officer, either originally or under paragraph 7 (3), other than—

- (i) stoppage of pay ;
- (ii) additional duty ; or
- (iii) reprimand ;

(b) the references to the Fire Force Commander in paragraph 7 (other than the first such reference) shall be construed as references to the Fire Force Commander or to the officer in command of the station, whichever of them makes the delegation ;

(c) in relation to a charge heard by virtue of this paragraph, the references in paragraph 7 to officers of the Fire Force, and the reference in paragraph 8 to another member of the Fire Force, shall be construed respectively as references to officers of and to another fireman in the National Fire Service for the time being stationed at or posted to the station ;

(d) a fireman shall not be tried for the same offence both by virtue of this paragraph and by, or by the authority of, his Fire Force Commander".

(5) In paragraph 12 of the said Part II the words "for references to the Regional Commissioner of references to the Secretary of State" are hereby
repealed [242]

4.—(1) After paragraph 1 of Part III of the said Second Schedule there shall be inserted the following paragraph :—

“ 1A. Where a fireman is suspended from duty under this Part of this Schedule on the ground of absence from duty, the period of suspension shall, if the Fire Force Commander so directs, begin with the date which appears to the Fire Force Commander to be the date on which that offence may have been committed ”.

(2) For paragraph 2 of the said Part III there shall be substituted the following paragraph :—

“ 2. Where a fireman is suspended from duty under this Part of this Schedule, the period of suspension shall, unless previously brought to an end by the Fire Force Commander, continue until disciplinary or criminal proceedings in respect of that offence have been concluded or until it has been decided that such proceedings shall not be taken or shall be discontinued :

Provided that, where a fireman is convicted of a criminal offence, the period of suspension shall (so far as not continued by Regulation 8 (4B) of these Regulations) continue until it is decided whether or not he shall be discharged by reason of the conviction ”.

(3) For so much of paragraph 3 of the said Part III as precedes the provisos there shall be substituted the following words—

“ A fireman who has been suspended from duty (whether by virtue of Regulation 8 or Regulation 10 of these Regulations or under this Part of this Schedule) shall not be entitled in respect of the period of suspension to any pay but shall, subject to the provisions of paragraph 5 of this Part of this Schedule, be paid—

(i) where he has been suspended under paragraph 1 of this Part of this Schedule on the ground of absence from duty, such suspension allowance, if any, as may from time to time be directed by the Fire Force Commander ;

(ii) in any other case, such suspension allowance, not being less than half his pay, as may from time to time be so directed : ”.

(4) At the end of the said Part III there shall be inserted the following paragraph :—

“ 5. Notwithstanding anything in this Part of this Schedule, no suspension allowance shall be payable in respect of any period of penal servitude, imprisonment or detention in a Borstal institution not being a period of imprisonment on remand or while awaiting trial ”. [243]

5. After Part III of the said Second Schedule there shall be added the following Part :—

“ PART IV.

General provisions as to Fire Force Commanders and Assistant Fire Force Commanders.

1. The Regional Commissioner may direct that all or any of the powers of a Fire Force Commander under Parts II and III of this Schedule shall be exercisable also in relation to the whole or any part of his Fire Force by such person as may be specified in the direction, being either an Assistant Fire Force Commander who is a member of that Fire Force or the officer designated as the deputy of the Fire Force Commander, or shall, in any particular case, be exercised by any member of the National Fire Service so specified, whether a fireman or not, instead of the Fire Force Commander ; and references to the Fire Force Commander in the said Parts II and III shall be construed accordingly.

2.—(1) Part II of this Schedule shall have effect, in relation to offences committed by Fire Force Commanders or Assistant Fire Force Commanders subject to the modifications set out in this paragraph.

(2) Paragraphs 6, 7, 8, 11 and 12 shall not apply.

(3) References to a fireman in a Fire Force shall be construed as references to a Fire Force Commander or Assistant Fire Force Commander (whether or not a member of a Fire Force), but any other reference to the Fire Force Commander shall be construed as a reference to the Regional Commissioner.

(4) The Regional Commissioner may delegate all or any of the functions conferred on him by virtue of this paragraph, either generally or in a particular case, to any person selected by him or to a board consisting of two or more such persons.

(5) A Fire Force Commander or Assistant Fire Force Commander shall be allowed to have another member of the National Fire Service, selected by himself, to assist him in presenting his case at the hearing of a charge against him :

Provided that where the charge is heard, by virtue of a delegation under sub-paragraph (4) of this paragraph, by a fireman or firemen in the National Fire Service (whether or not together with other persons), the person selected by the Fire Force Commander or Assistant Fire Force Commander to assist him in presenting his case shall not be a fireman in the National Fire Service of a rank equal or superior to that of the fireman, or any of the firemen, hearing the charge.

(6) Any punishment imposed by virtue of this paragraph shall not be carried out until it has been confirmed, with or without modifications, by the Secretary of State and for the purpose of proviso (a) to paragraph 4 of the said Part II the date of the confirmation shall be deemed to be the date of the award of the punishment, and the Secretary of State may appoint one or more persons to hold an inquiry and report to him as to the confirmation or otherwise of any such punishment.

(7) Any Fire Force Commander or Assistant Fire Force Commander who feels aggrieved by a decision of the Regional Commissioner, or of a person or board to whom the functions of the Regional Commissioner have been delegated under this paragraph, awarding punishment shall, on giving notice in writing to the Secretary of State and to the Regional Commissioner within seven clear days of the decision having been notified to him, be entitled to make representations against the confirmation of the punishment ; but where a notice is given under this sub-paragraph the power of the Secretary of State to confirm the punishment with modifications shall extend to increasing it.

(8) A Fire Force Commander or Assistant Fire Force Commander who gives notice under sub-paragraph (7) of this paragraph shall make his representations in writing ; but if an inquiry is to be held under sub-paragraph (6) of this paragraph, he shall be entitled to appear before, and be heard by, the persons holding the inquiry and to have a person selected by himself (who need not be a member of the National Fire Service) to assist him in presenting his case.

3. Part III of this Schedule shall apply to Fire Force Commanders and Assistant Fire Force Commanders who are members of a Fire Force as if they were not members of any Fire Force." [244]

6.—(1) At the end of the proviso to paragraph 8 (3) of the Third Schedule to the said Regulations there shall be added the words " or on conviction of a criminal offence ".

(2) For the proviso to paragraph 10 of the said Third Schedule there shall be substituted the following proviso :—

“ Provided that there shall, to such extent, and to such extent only, as the Secretary of State may direct, be taken into account any increase of pay which, in the opinion of the Secretary of State, any such fireman as aforesaid would, on the assumptions aforesaid, be enjoying, being an increase resulting from—

- (i) an increase of pay granted to the brigade or force after, but with effect from a date before, he ceased to be a member thereof ;
- (ii) an increase of pay granted after, and with effect from a date after, he ceased to be a member of the brigade or force, to any class of persons employed or paid by the local authority, being a class which would have included him if he had continued to be a member of the brigade or force ;
- (iii) in the case of a fireman who was a member of a fire brigade, an increase of pay which the Secretary of State is satisfied would have been granted to the brigade after he ceased to be a member thereof by reason of an established relationship, whether direct or indirect, between the pay of that brigade and that of any other class of persons employed or paid by the local authority or any other fire brigade or any police force ”. [245]

7. Sub-paragraph (4) of paragraph 1 of the Fifth Schedule to the said Regulations shall be omitted. [246]

8. Anything done under any provision of the said Regulations for which a provision is substituted by these Regulations shall, as from the coming into force of these Regulations, have effect as if done under the provision so substituted. [247]

9. These Regulations may be cited as the National Fire Service (General) (No. 5) Regulations, 1942. [248]

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THE NATIONAL FIRE SERVICE (GENERAL) (NO. 6) REGULATIONS, 1942

S. R. & O., 1942, No. 2638

December 17, 1942

In pursuance of the powers conferred upon me by the Fire Services (Emergency Provisions) Act, 1941, I hereby make the following Regulations :—

1. In paragraph (3) of Regulation 6 of the National Fire Service (General) Regulations, 1941, for the words “ Senior Area Officer ” there shall be substituted the words :—

“ Regional Woman Fire Officer.
Area Officer.” [249]

2.—(1) In Regulation 7 of the said Regulations the words “ Senior Area Officer ” in paragraph (2) (b) (i) and the words “ Senior Area Officers ” in paragraph (3) (a) shall be omitted.

(2) In proviso (i) to paragraph (3) of the said Regulation 7 after the words “ the Regional Commissioner ”, where those words first occur, there shall be inserted the words “ under sub-paragraph (a) of this paragraph ”, and after the words “ the Fire Force Commander ” there shall be inserted the words “ under sub-paragraph (b) of this paragraph ”. [250]

3.—(1) In sub-paragraph (1) of paragraph 7 of Part II of the Second Schedule to the said Regulations the word "Assistant" shall be omitted.

(2) Where under the said paragraph 7 a Fire Force Commander had delegated any of his functions to an Assistant Area Officer, or to a board which consisted of or included Assistant Area Officers, and the hearing of any charge had, before the making of these Regulations, been begun before that officer or board, the proceedings may be carried on as if this Regulation had not been made. [251]

4.—(1) In sub-paragraph (1) of paragraph 1 of the Third Schedule to the said Regulations for the entry in the scale of pay relating to a Section Leader and the subsequent entries there shall be substituted the following entries :—

	£	s.	d.	
" Section Leader	6	3	6	per week.
Leading Fireman	4	8	6	" "
Fireman, aged twenty or over	3	18	6	" "
" aged nineteen to twenty	3	3	0	" "
" aged eighteen to nineteen	2	12	0	" "

and in sub-paragraph (2) of the said paragraph 1 for the entry in the scale of pay relating to an Assistant Group Officer and the subsequent entries there shall be substituted the following entries :—

	£	s.	d.	
" Assistant Group Officer	3	15	0	per week.
Leading Firewoman	3	2	0	" "
Firewoman, aged twenty or over	2	15	0	" "
" aged nineteen to twenty	2	9	0	" "
" aged eighteen to nineteen	2	8	6	" "

Regulation 4 of the National Fire Service (General) (No. 4) Regulations, 1942, is hereby revoked.

(2) In sub-paragraph (4) of the said paragraph 1 for the words from "at a rate" to the end of that sub-paragraph there shall be substituted the following words :—

"at such rates as the Secretary of State may determine :

Provided that where a fire brigade maintained by some person other than a local authority is by agreement incorporated in the National Fire Service and immediately before its incorporation there were in force arrangements with a local authority for the provision by that person of the services of that brigade, there shall be paid to members of the brigade who on its incorporation become part-time firemen such sums, whether by way of pay or compensation for loss of time, as the Secretary of State may determine." [252]

5. These Regulations may be cited as the National Fire Service (General) (No. 6) Regulations, 1942. [253]

* * * * *

THE FIRE PRECAUTIONS (RESIDENTIAL BUILDINGS) ORDER, 1942

S. R. & O., 1942, No. 241

February 9, 1942

In pursuance of the powers conferred on me by Regulations 27 and 38 of the Defence (General) Regulations, 1939, I hereby order as follows :—

1. This Order shall apply to residential buildings of such classes or descriptions as may be prescribed by directions of a Regional Commissioner

and to dwellings comprised in any residential building of a class or description so prescribed :

Provided that a Regional Commissioner may by directions exempt from any or all of the provisions of Articles 2, 3, 4 and 5 of this Order any residential building or dwelling or any class or description of residential building or dwelling as the case may be. [254]

2. Unless there is access from a road to one of the doors of a residential building otherwise than through an outer gate, that outer gate or, if there is more than one, one of those outer gates, shall not be locked or in such a condition that it cannot readily be opened. [255]

3. Immediately inside or immediately outside the main door or, if there is only one door, the door of a dwelling there shall be not less than four gallons of water in a container or containers which are readily portable when full and which can readily be used with a stirrup pump or, if there is more than one container, one of which can readily be so used. [256]

4.—(1) Where a residential building is vacant, at least one square foot of each window on any top floor of the residential building shall, except while a person is in the building or curtilage thereof, be unobscured by material opaque to light.

(2) Where a residential building which comprises more than one dwelling is not vacant, at least one square foot of each window which is on any top floor of the building and is a window of a vacant dwelling shall be unobscured by material opaque to light. [257]

5.—(1) The occupier of a vacant dwelling shall give to an authorised person such information about methods of entry to the dwelling or of access to any part of the dwelling as may be required in writing by that person.

(2) The occupier of a vacant dwelling shall, if so required in writing by an authorised person, deliver to him any keys necessary for the purpose of opening the main door or, if there is only one door, the door of the dwelling. [258]

6. If the provisions of Articles 2, 3, 4 or 5 of this Order are not complied with, it shall be a defence, in any proceedings which are taken against the occupier for an offence against the said Regulation 27, for the occupier to prove either—

(a) that, by reason of absence he was not aware that the said provisions were not complied with, or

(b) that, having regard to all the circumstances (including his absence and his financial position) it was not reasonably practicable for him to secure compliance with the said provisions. [259]

7. A Regional Commissioner may authorise any person or any class or description of person to exercise the powers conferred by paragraph (5) of the said Regulation 27. [260]

8.—(1) In this Order the following expressions have the meanings hereby respectively assigned to them, that is to say,—

“ authorised person ” means any person authorised under Article 7 of this Order to exercise the powers conferred by paragraph (5) of the said Regulation 27 ;

“ class or description ” includes description by reference to locality ;

“ dwelling ” means—

(i) where a residential building is not adapted for occupation in separate parts and is not occupied in separate parts, the whole of the residential building,

- (ii) where a residential building is adapted for occupation in separate parts, each of those parts,
- (iii) where a residential building, though not adapted for occupation in separate parts, is occupied in separate parts, each of those parts,
- (iv) where parts of a residential building are not included in any dwelling as above defined, those parts ;

“occupied in separate parts” means occupied on terms which do not include payment in respect of board, attendance or the use of furniture ;

“occupier” includes, in relation to any residential building or dwelling which is unoccupied, the person entitled to occupy the residential building or the dwelling, as the case may be ;

“residential building” means—

- (i) in relation to a building used, or intended or adapted for use, for residential purposes only, that building,
- (ii) in relation to a building used, or intended or adapted for use, mainly for residential purposes, that part of the building which is not used or intended or adapted for use for purposes other than residential.

(2) For the purposes of this Order a residential building or a dwelling shall be deemed to be vacant if no person has lived or slept therein during the preceding fourteen days. [261]

9. This Order shall not extend to Scotland. [262]

10. This Order may be cited as the Fire Precautions (Residential Buildings) Order, 1942. [263]

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THE FIRE PRECAUTIONS (ACCESS TO PREMISES) (LONDON) ORDER, 1942

S. R. & O., 1942, No. 634

April 2, 1942

In pursuance of the powers conferred on me by Regulations 28A and 38 of the Defence (General) Regulations, 1939, I hereby order as follows :—

1. The same powers of entry and of taking steps for extinguishing fires or for protecting property, or rescuing persons or property, from fire as are, in relation to Great Britain, expressed to be conferred on members of fire brigades by subsection (1) of section fourteen of the Fire Brigades Act, 1938, are, in relation to the administrative county of London, hereby conferred on persons of the following class, that is to say :—

constables. [264]

2. This Order may be cited as the Fire Precautions (Access to Premises) (London) Order, 1942. [265]

* * * * *

ORDER IN COUNCIL AMENDING THE DEFENCE (NATIONAL FIRE SERVICE) REGULATIONS, 1941

S. R. & O., 1942, No. 804

April 30, 1942

His Majesty, in pursuance of the Emergency Powers (Defence) Acts, 1939 and 1940, and of all other powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :—

1. In paragraph (2) of Regulation two of the Defence (National Fire Service) Regulations, 1941, after the words “mitigate the effects of enemy action” there shall be inserted the words “or any other work for any government department or connected with the performance of their functions by any local authority or harbour authority or with the performance by any undertakers of essential services”. [266]

2. At the end of the said paragraph (2) there shall be added the following sentence—

“In this paragraph the expression ‘undertakers’ means the persons carrying on any public utility undertaking or any undertaking by way of any trade or business, and the expressions ‘local authority’, ‘harbour authority’ and ‘public utility undertaking’ have the same meanings as in the Defence (General) Regulations, 1939.” [267]

* * * * *

THE FIRE PREVENTION (GOVERNMENT PREMISES) ORDER, 1942

S. R. & O., 1942, No. 839

May 4, 1942

In pursuance of the powers conferred upon me by Regulations twenty-seven A and thirty-eight of the Defence (General) Regulations, 1939, I hereby order as follows :—

1. This order shall apply to—

- (a) premises occupied by or for the purposes of a government department and situated in an area prescribed under the Fire Prevention (Business Premises) Order, 1941, or the Fire Prevention (Business Premises) (No. 2) Order, 1941, except such premises or classes of premises as may be prescribed ;
- (b) such premises as may be prescribed, being premises occupied by or for the purposes of a government department but not situated in such an area as aforesaid ;
- (c) such premises or classes of premises, occupied for such purposes, as may be prescribed under Article 13 of this order ; and
- (d) business premises as respects which an agreement made under the next following Article is for the time being in force. [268]

2.—(1) Subject to the provisions of this order, the appropriate department for any premises to which this order applies shall make proper and adequate arrangements for the purpose of securing that fires occurring at the premises as the result of hostile attack will be immediately detected and combated.

(2) Where the same department is the appropriate department for several premises to which this order applies, that department may make combined arrangements for those premises, whether or not they are adjoining or neighbouring premises or premises in the same building :

Provided that no person shall be required under the arrangements without his consent to perform fire prevention duties at any premises which are more than two miles from the premises at which he works.

(3) The appropriate departments for several premises to which this order applies, being adjoining or neighbouring premises or premises in the same building, may make joint arrangements for those premises.

(4) The appropriate department or departments for premises to which this order applies may agree with the appropriate authority or appropriate authorities for any business premises to which the Fire Prevention (Business Premises) (No. 2) Order, 1941, applies, or with the occupier or occupiers of any such business premises subject to the approval of the appropriate authority or appropriate authorities for those premises, that while the agreement is in force either—

(a) all the premises shall be deemed to be premises to which this order applies and the said appropriate department or (if there are several appropriate departments concerned) one of those departments shall be the appropriate department for such of the premises as are business premises, and joint arrangements shall be made for all the premises under this order ; or

(b) all the premises shall be deemed to be business premises to which the Fire Prevention (Business Premises) (No. 2) Order, 1941, applies and, in the case of premises other than business premises, the appropriate department shall be deemed to be the occupier and the Minister shall be the appropriate authority for the purposes of the said order and joint arrangements shall be made for all the premises under the said order ;

and this order or, as the case may be, the Fire Prevention (Business Premises) (No. 2) Order, 1941, shall have effect accordingly, and, on the making of the joint arrangements, any arrangements in force for the said business premises under the Fire Prevention (Business Premises) (No. 2) Order, 1941, shall cease to be in force for those premises :

Provided that—

(i) an agreement shall only be made under this paragraph where all the premises to which the agreement relates are adjoining or neighbouring premises or premises in the same building ;

(ii) Where an agreement is made under this paragraph by an occupier or occupiers of business premises, it shall not be determined by that occupier, or, as the case may be, by any of those occupiers without the approval of the appropriate authority or the authority which would, but for the agreement, be the appropriate authority for the premises concerned under the Fire Prevention (Business Premises) (No. 2) Order, 1941 ;

(iii) where an agreement is made applying sub-paragraph (b) of this paragraph by an appropriate department or appropriate departments, it shall not be determined by that department, or, as the case may be, by any of those departments without the approval of the Minister.

(5) Where joint arrangements are made under paragraph (3) of this Article or sub-paragraph (a) of the last foregoing paragraph, for premises to which this order applies the arrangements shall provide that, in a case where two or more appropriate departments are concerned, one of those departments shall be solely responsible for the administration of the arrangements.

(6) Where the appropriate department for any premises to which this order applies is also the appropriate authority for any business premises to which the Fire Prevention (Business Premises) (No. 2) Order, 1941, applies, all the said premises being adjoining or neighbouring premises or premises in the same building, the department may issue a direction to the occupier or occupiers of the said business premises to the effect that either sub-paragraph (a) or sub-paragraph (b) of paragraph (4) of this Article shall apply to all the said premises, and the appropriate department shall make joint arrangements for all the said premises accordingly, and this order or the said Fire Prevention (Business Premises) (No. 2) Order, 1941, as the case may be, shall have effect subject to the directions. [269]

3.—(1) The appropriate department for any premises to which this order applies shall consult with the persons working at the premises or with their representatives with respect to the arrangements to be made under this order for those premises and the manner in which the arrangements are to be carried out, and, in so far as any such persons have trade union representatives or representatives appointed by an organisation holding a certificate of approval under the Civil Service (Approved Associations) Regulations, 1927, they shall be entitled to be represented by those representatives.

(2) The appropriate department for any such premises shall, within twenty-one days from the date on which this order applies to the premises, make the arrangements under this order for the premises and on the date on which the arrangements are made the department shall—

- (a) in a case where the department has consulted representatives, send or deliver to every representative a copy of the arrangements ;
- (b) in a case where any of the persons working at the premises have not been represented by representatives, in addition to its obligation (if any) under the foregoing sub-paragraph, cause copies of the arrangements to be displayed at the premises or otherwise made available for inspection at the premises by those persons ;

and representations with respect to the arrangements may be made in writing to the appropriate department by any representative who has been consulted or by any person working at the premises who has not been represented by a representative.

(3) The appropriate department for any premises shall not bring any arrangements into force before the expiration of seven days from the date on which the arrangements were made, and shall, before bringing the arrangements into force, consider any representations made to it under the last foregoing paragraph within the said period :

Provided that if, in a case where representations have been made to it within the said period, the appropriate department consider it necessary or expedient that the arrangements should come into force forthwith, the department may, before it has considered or fully considered the representations, provisionally bring the arrangements into force, with or without modifications, and give notice thereof in writing to every person who has made the representations.

(4) Where any such arrangements have been provisionally brought into force, under the last foregoing paragraph, the appropriate department shall without delay consider, or complete its consideration of, the said representations and shall, not later than the expiration of one month from the date on which it notified the provisional bringing into force of the arrangements, or of such further periods (not exceeding one month in any case) as it may from time to time notify in writing to the persons who made the said representations, finally bring the arrangements into force with or without modifications :

Provided that if any such provisional arrangements remain in force for a period exceeding three months from the said date, the appropriate department shall report that fact to the Minister and the reasons therefor.

(5) Before any such arrangements are brought into force, whether provisionally or finally, the appropriate department shall notify in writing to every person who has made representations within the period specified in paragraph (3) of this Article the date on which the arrangements are to come into force, not being less than three days after the notification, and shall at the same time cause the like notice to be displayed at the premises.

(6) While any arrangements for any premises are for the time being in force under this order, the appropriate department shall cause copies thereof to be displayed at the premises or otherwise made available for inspection at the premises by the persons working at the premises.

(7) Where joint arrangements are made under sub-paragraph (a) of paragraph (4) of the last foregoing Article for any business premises, this Article shall have effect with the following additions and modifications :—

(a) the appropriate department shall consult with the occupier of any such premises (as well as with persons working at the premises or their representatives) with respect to the arrangements and the manner in which they are to be carried out ; and

(b) the consultations with the persons working at the premises or their representatives shall be carried out by the occupier on behalf of the appropriate department ; and

(c) the appropriate department shall send or deliver to the occupier under paragraph (2) of this Article a copy of the arrangements, and representations may be made in writing to the appropriate department under that paragraph by the occupier ;

(d) any notices required to be given under paragraphs (3), (4) and (5) of this Article to persons who have made representations shall also be given to the occupier, whether he has made representations or not ;

(e) it shall be the duty of the occupier to cause copies of the arrangements to be displayed at the premises under paragraphs (2) and (6) of this Article.

(8) Arrangements made under this Article for any premises shall not be deemed to be invalid on the ground that the persons working at the premises or their representatives were not consulted in accordance with this Article, if it is shown that the appropriate department took reasonable steps to obtain the views of those persons or their representatives with respect to the arrangements and the manner in which they were to be carried out, and that they refused to discuss or express any views on the matters aforesaid. [270]

4.—(1) It shall be the duty of all male persons working at premises for which arrangements are in force under this order, other than voluntary arrangements, being British subjects of the prescribed age, to perform such fire prevention duties as may be allotted to them under the arrangements :

Provided that—

(a) any such person may, in accordance with the Civil Defence Duties (Exemption Tribunals) Order, 1941, apply to the tribunal mentioned in that order for exemption from fire prevention duties under this order on the ground that he is medically unfit to perform them, and the tribunal may grant such exemption in accordance with the said order, and any such person who has been so exempted, or who has been exempted by the tribunal mentioned in the Defence (Palace of Westminster Fire Prevention) Regulations, 1941, or in the said order from enrolment for,

or released or exempted by that tribunal from, the fire prevention duties which he would otherwise be required to perform under the said Regulations, the Fire Prevention (Business Premises) (No. 2) Order, 1941, the Civil Defence Duties (Compulsory Enrolment) Order, 1941, or the Civil Defence Duties (Compulsory Enrolment) (City of London) Order, 1941, as the case may be, on the ground of medical unfitness, shall be exempted from fire prevention duties under this order, so long as the order of the tribunal has effect ;

- (b) any such person may, in accordance with the Civil Defence Duties (Exemption Tribunals) Order, 1941, apply to the tribunal mentioned in that order for exemption from such duties as may be allotted to him under the said arrangements or for a reduction in the aggregate periods for which he may be required to perform such duties on the ground that it would be an exceptional hardship if he were required to perform them or (in the case of an application for a reduction) to perform them for those periods, and the said tribunal may, subject to the provisions of this Article, grant such application in accordance with the said order, and any such person whose application is granted under this paragraph shall, so long as the order of the tribunal has effect, be exempted from the said duties, or, as the case may be, be required to perform them for such reduced aggregate periods as may be specified in the order of the tribunal ;
- (c) any such person shall be exempted from the said duties if and so long as he works at any other premises for which arrangements are in force under this order or the Fire Prevention (Business Premises) (No. 2) Order, 1941, and performs outside his working hours duties allotted to him under those arrangements ;
- (d) any person enrolled under the Civil Defence Duties (Compulsory Enrolment) (City of London) Order, 1941, shall be exempted from the said duties, if and so long as he is required to perform duties by virtue of his enrolment under that order ;
- (e) the following persons shall be exempted from the said duties, namely, members of the Royal Observer Corps, constables and persons of such classes as may be prescribed ;
- (f) members of the armed forces of the Crown (including members of the Home Guard and the Auxiliary Coastguard but not including members of any reserve or auxiliary force or service who have not been called out for service or have been released from service), shall be exempted from the said duties, but without prejudice to their being required to perform fire prevention duties in accordance with instructions issued by the Admiralty, the Army Council or the Air Council, as the case may be ;
- (g) a fireman of the National Fire Service who holds a certificate from a Fire Force Commander or an officer designated by the Secretary of State that, at the time when the certificate was issued, he was performing duties as such a fireman for periods amounting in the aggregate to not less than forty-eight hours in each month, shall be exempted from the said duties so long as he continues to perform duties as such a fireman for such periods ;
- (h) a person who holds a certificate from a local authority that, on the eighteenth day of January, nineteen hundred and forty-one, he had undertaken to perform civil defence duties in the area of that authority and was performing those duties for periods amounting in the aggregate to not less than forty-eight hours in each month, shall be exempted from the said duties so long as

he continues to perform civil defence duties for such periods, whether in that area or in the area of any other local authority, or, in the case of a person who has become a fireman of the National Fire Service since the date of the issue of the certificate, continues to perform duties as such a fireman for such periods ;

- (i) a person who has in compliance with a direction given under paragraph (1) of Regulation twenty-nine BA of the Defence (General) Regulations, 1939, entered the service of a local or harbour authority for employment in a capacity to which Regulation twenty-nine B of the said Regulations applies shall be exempted from the said duties so long as he continues to be so employed ;
- (k) the appropriate department may exempt from the said duties wholly or partly persons engaged upon such duties as the department may specify, being duties undertaken to forestall or mitigate hostile attack on the premises ;
- (l) the appropriate department may, as respects any premises which appear to that department to be industrial premises used for vital work, exempt from the said duties wholly or partly persons who appear to that department to be employed at those premises upon such work for exceptionally long hours ;
- (m) where it appears to any government department that any person ought, owing to the nature or length of hours of his work or any circumstances affecting the public interest, to be exempted from the said duties, it may grant to him a certificate of exemption, and any person who holds such a certificate or a certificate of exemption granted by a government department under the corresponding provision of any other order made under Regulation twenty-six A or Regulation twenty-seven A of the Defence (General) Regulations, 1939, shall be exempted from the said duties.

(2) A person exempted under sub-paragraph (b) of the last foregoing paragraph shall not be deemed to be exempted from the performance of the said duties during his working hours, or during a break for food or rest not exceeding one and a half hours in the course of a period of work.

(3) The tribunal referred to in sub-paragraph (b) of paragraph (1) of this Article shall not grant exemption under that sub-paragraph to any person from the performance of duties under arrangements in force for any premises which are notified in writing by the appropriate department to the tribunal to be industrial premises used for vital work, if the sole ground for exemption is exceptional hardship arising from the nature or length of hours of his work.

(4) Where there are in force under this order for any premises arrangements the duties under which, in so far as they are to be performed by persons working at the premises, are to be performed by such of those persons as have voluntarily agreed to perform them (in this order referred to as "voluntary arrangements"), paragraph (1) of this Article shall not apply to those premises.

(5) Where arrangements are in force under this order for any premises, whether the arrangements are voluntary arrangements or not, it shall be the duty of any person who has agreed to perform duties allotted to him under the arrangements, whether or not he is working at those premises, to perform those duties, unless he has given not less than seven days' notice in writing determining his services and the said period has expired. [271]

5.—(1) All arrangements made under this order shall, so far as practicable, secure that—

- (a) an adequate number of persons for the purpose of discharging fire prevention duties at the premises is available at all times ;

- (b) there are allotted to those persons specified fire prevention duties, and they receive sufficient instruction to enable them to perform those duties ;
 - (c) adequate equipment, including helmets, to enable the said duties to be discharged is at all times available at the premises.
- (2) All arrangements made under this order, other than voluntary arrangements, shall, as respects the persons who are required by virtue of paragraph (1) of the last foregoing Article to perform fire prevention duties allotted to them under the arrangements, secure that—
- (a) the periods for which the said duties are required to be performed by any such person outside his working hours do not in the aggregate exceed forty-eight hours in each period of four weeks ;
 - (b) the performance of the said duties outside working hours is so far as possible shared equally among all such persons ;
 - (c) the amount of any additional travelling expenses reasonably incurred by any such person in consequence of the arrangements is reimbursed ;
 - (d) subsistence allowances of the following amounts are payable to every such person—
 - (i) in respect of any occasion on which he performs the said duties outside his working hours for a continuous period not exceeding twelve hours, three shillings ;
 - (ii) in respect of any occasion on which he performs the said duties outside his working hours for a continuous period exceeding twelve hours but not exceeding eighteen hours, four shillings and sixpence ;
 - (iii) in respect of any occasion on which he performs the said duties outside his working hours for a continuous period exceeding eighteen hours but not exceeding twenty-four hours, six shillings :

Provided that—

(a) no subsistence allowance shall be paid to any person in respect of the performance of the said duties at any premises at a time while he is living in a building comprising those premises or in an adjoining or neighbouring building comprising any premises to which the arrangements apply, and for the purposes of this provision a person shall be deemed to be living in a building if he normally sleeps there on not less than three nights a week ;

(b) no subsistence allowance shall be paid in respect of any occasion on which a person performs the said duties during a break for food or rest not exceeding one and a half hours in the course of a period of work ;

(c) a person who performs the said duties outside his working hours for a continuous period exceeding twenty-four hours shall be deemed, after the completion of twenty-four hours, to perform the said duties on a new occasion ;

(3) Save as is provided by the last foregoing paragraph, no such person as is referred to therein shall be entitled to any remuneration for the performance of the said duties outside his working hours.

(4) It shall be the duty of the appropriate department to provide and maintain at the premises, for persons performing outside their working hours fire prevention duties allotted to them under the arrangements, proper and

adequate sleeping accommodation, bedding, sanitary conveniences and facilities for washing. [272]

6.—(1) The appropriate department for any premises to which this order applies may, within twenty-one days from the date on which this order applies to the premises, report in writing to the Minister that it is unable to make arrangements for the premises under this order, stating the grounds of its inability.

(2) The appropriate department or departments for any premises for which arrangements are in force under this order may at any time report in writing to the Minister that it is or they are unable either to carry out the arrangements or to make any practicable amendments thereof or arrangements in substitution therefor, stating the grounds of inability. [273]

7.—(1) The appropriate department or departments for any premises for which arrangements are in force under this order may at any time amend those arrangements.

(2) The appropriate department or departments for any premises to which this order applies may at any time make new arrangements for the premises, including such combined or joint arrangements as are referred to in paragraphs (2) and (3) of Article 2 of this order, or may enter into such agreements for the making of joint arrangements as are referred to in paragraph (4) of that Article, the new arrangements to take effect in all cases in substitution for any arrangements previously in force for the premises or any of them ; and the proviso to paragraph (2) of the said Article shall apply to combined arrangements made under this paragraph as it applies to combined arrangements made under that paragraph.

(3) The persons working at any premises for which arrangements are in force under this order, or the representatives of those persons, and, in the case of joint arrangements relating to business premises, the occupier of any such premises may represent to the appropriate department for the premises, or (in the case of joint arrangements) to the department responsible for the administration thereof, that the arrangements ought to be amended, and any such representations shall be considered with a view to the exercise of powers under this Article.

(4) Article 3 of this order shall apply (so far as applicable) in relation to the making by the appropriate department or departments for any premises of amendments of arrangements or new arrangements under this Article in like manner as it applies in relation to the original making of arrangements under this order.

(5) Where any new arrangements are made under this Article for any premises, any arrangements previously in force for those premises under this order shall—

- (a) if they only applied to those premises, cease to be in force as from the date on which the new arrangements come into force whether provisionally or otherwise ;
- (b) if they also applied to other premises, apply to those other premises only as from the said date. [274]

8.—(1) It shall be the duty of the appropriate department for any premises for which arrangements are in force under this order, or (in the case of joint arrangements) of the department responsible for the administration thereof, to carry out those arrangements, whether or not they were made by that department.

(2) It shall be the duty of the occupier of any business premises for which joint arrangements are in force under this order to comply with any directions given by the department responsible for the administration of the arrange-

ments as to the manner in which the arrangements are to be carried out, and to provide equipment to be available at the premises, to provide and maintain sleeping accommodation, bedding, sanitary conveniences, and facilities for washing, and to re-imburse travelling expenses and pay subsistence allowances in the case of persons employed at the premises.

(3) Where joint arrangements are made for any premises, the department responsible for the administration of the arrangements may, in default of agreement between the several departments and occupiers of the premises for which the joint arrangements are made, give directions apportioning among those departments and occupiers the expenses of carrying out the arrangements (including expenses incurred in respect of the particular matters referred to in Article 5 of this order).

(4) If the occupier of any business premises for which joint arrangements are in force under this order fails in any respect to carry out his obligations under paragraph (2) of this Article, the department responsible for the administration of the arrangements may make good his failure and recover summarily as a civil debt from him any expenses thereby incurred by the department :

Provided that nothing in this paragraph shall prejudice any criminal proceedings for any such failure. [275]

9.—(1) Arrangements made under this order shall not be treated as invalid by reason of the fact that they were made after the expiration of the period specified in Article 3 of this order.

(2) In any criminal proceedings under this order in relation to any premises, the production of a document purporting to be a copy of the arrangements in force under this order for those premises at the time specified in the document and to be signed by or on behalf of the appropriate department shall be sufficient evidence that those arrangements were so in force at that time, unless the contrary is shown. [276]

10.—(1) The appropriate department and (in the case of joint arrangements) the department responsible for the administration of the arrangements may from time to time by notice in writing require the occupier of any business premises for which joint arrangements are to be or have been made under paragraph (4) of Article 2 of this order to furnish such information as may be specified in the notice, being information required for the purposes of this order, and in particular may require him to furnish the names and addresses of all male persons working at the premises, being British subjects of the prescribed age, and the numbers specified on the identity cards issued to those persons under the National Registration Act, 1939, and to state which of those persons are exempted under Article 4 of this order.

(2) It shall be the duty of all persons working at any such business premises to furnish to the occupier of the premises such information as he may require for the purpose of complying with any notice served on him under this Article, and it shall be the duty of all persons working at any other premises to which this order applies to furnish to the appropriate department, and (in the case of joint arrangements) to the department responsible for the administration thereof, such information as the department may require for the purposes of this order. [277]

11.—(1) Where a different government department becomes, otherwise than by virtue of directions given under this order, the appropriate department for any premises for which arrangements (other than joint arrangements) are in force under this order, those arrangements shall cease to be in force, and this order shall have effect in relation to those premises as if for any reference to the date on which it applies thereto there were substituted a reference to the date on which the change occurs :

Provided that the new appropriate department may, within seven days of the change, if it is satisfied that no substantial alteration in the use of the premises or in the persons working thereat is involved, direct that any arrangements in force for the premises shall continue in force, and that copies of the arrangements shall be displayed at the premises.

(2) Where joint arrangements are in force under this order for any premises, and, by reason of any such change as aforesaid or otherwise, the arrangements cease to apply to some of those premises, they shall continue in force for the other premises, but without prejudice to the provisions of this order relating to the amendment of arrangements and the substitution of new arrangements.

(3) Where this order has applied to any premises but has ceased for any reason to apply to those premises, then, if the premises again become premises to which this order applies, any reference to the date on which this order applies to those premises shall be construed as a reference to the date when they again become premises to which this order applies. [278]

12. Subject to the provisions of this Article, the appropriate department for the purposes of this order shall, in relation to any premises, be the government department by which the premises are occupied :

Provided that—

- (a) any appropriate department may agree to the exercise by another government department of any of its functions under this order ;
- (b) in the case of premises vested in a government department and used for the purposes of another government department, the last named department shall, unless the Treasury otherwise direct, be the appropriate department ;
- (c) in the case of premises occupied by or for the purposes of a government department which is subordinate to another government department, the Treasury may direct that the last-named department shall be the appropriate department. [279]

13. If any question arises as to whether any premises are occupied by or for the purposes of a government department, it shall be referred to and determined by the Treasury, and the Treasury may give directions extending this order, subject to such modifications as may be specified in the directions, to such premises or classes of premises as may be so specified, being premises occupied by or for the purposes of an institution or body of a public character, and any such directions shall specify the government department, authority or person who is to be the appropriate department for the premises. [280]

14. The Minister may, to such extent and subject to such restrictions as he thinks proper, delegate to a Regional Commissioner any functions exercisable by him under this order. [281]

15.—(1) In this order the following expressions have the meanings respectively assigned to them, that is to say

“ local authority ” means the Common Council of the City of London, the council of a metropolitan borough, or the council of a county, county borough or county district ;

“ business premises,” “ fire prevention duties ” and “ working hours ” have the same meanings as in Regulation twenty-seven A of the Defence (General) Regulations, 1939 ;

“ civil defence duties ” has the same meaning as in Regulation twenty-six A of those Regulations ;

“ the Minister ” means the Minister of Home Security ;

"period of four weeks" means the period of four weeks beginning with the twenty-second day of September, nineteen hundred and forty-one, and any period of four weeks beginning with a date exactly four weeks, or an exact multiple of four weeks, after the first-mentioned date;

"prescribed," except where the context otherwise requires, means prescribed by directions given by the Minister:

Provided that the power of prescribing premises under paragraph (a) or paragraph (b) of Article 1 of this order shall, in the case of premises occupied by or for the purposes of any of the following departments, that is to say, the Admiralty, the War Department, or the Air Ministry, be exercisable by that department;

"Regional Commissioner" has the same meaning as in Regulation one hundred of the Defence (General) Regulations, 1939.

(2) Any reference in this order to any Regulations, Regulation, or order shall be construed as a reference to those Regulations or that Regulation or that order as amended by any subsequent Regulations, Regulation or order.

(3) For the purposes of this order, when joint arrangements or combined arrangements are in force under this order for several premises, all those premises shall be treated as if they were single premises. [282]

16. In the application of this order to Scotland—

(a) the expression "the Minister" means either the Minister of Home Security or the Secretary of State;

(b) the expression "local authority" means county, town or district council;

(c) Article 8 of this order shall have effect as if the word "summarily" were omitted therefrom. [283]

17. Any arrangements for the performance of fire prevention duties which were being carried out immediately before the coming into operation of this order at any premises to which this order applies and which could have been made under any provision of this order (including paragraph (4) of Article 2 thereof), shall be deemed to have been made under that provision and shall continue in force accordingly:

Provided that, if representations are made in writing to the appropriate department within twenty-one days of the coming into operation of this order, either by the persons working at any of the premises to which the arrangements apply, or by their representatives, or (in a case where the arrangements apply to business premises) by the occupier of any such premises, to the effect that new arrangements ought to be made under this order, new arrangements shall be made for the premises in accordance with Article 3 of this order, with the substitution for the reference to the date on which this order applies to the premises of a reference to the date on which the representations were made, and, on the coming into force of the new arrangements whether provisionally or otherwise, the old arrangements shall cease to be in force. [284]

18.—(1) This order may be cited as the Fire Prevention (Government Premises) Order, 1942.

(2) This order shall come into operation on the eleventh day of May nineteen hundred and forty-two. [285]

**THE FIRE PREVENTION (GOVERNMENT PREMISES)
(NO. 2) ORDER, 1942**

S. R. & O., 1942, No. 2397

November 23, 1942

In pursuance of the powers conferred upon me by Regulations twenty-seven A and thirty-eight of the Defence (General) Regulations, 1939, I hereby order as follows :—

1.—(1) In paragraph (1) of Article 4 of the Fire Prevention (Government Premises) Order, 1942, the word “male” shall be omitted, and for the words “of the prescribed age” there shall be substituted the words “of the age prescribed for their sex”.

(2) After paragraph (d) of the proviso to paragraph 1 of the said Article 4 there shall be inserted the following paragraph :

“(da) where the premises are in the City of London, women working at the premises shall be exempted from the said duties ; ”

(3) For paragraph (e) of the proviso to paragraph (1) of the said Article 4 there shall be substituted the following paragraph :—

“(e) the following persons shall be exempted from the said duties—

- (i) a member of the Royal Observer Corps ;
- (ii) a constable ;
- (iii) a person certified by a local authority, as defined by the Blind Persons Acts, 1920 and 1938, to be registered as a blind person under arrangements made by the authority under those Acts ;
- (iv) a deaf and dumb person ;
- (v) a person of any such class as may be prescribed ; ”

(4) In paragraph (f) of the proviso to paragraph (1) of the said Article 4 after the words “including members of”, in the first place where they occur, there shall be inserted the words “the Women’s Royal Naval Service, the Auxiliary Territorial Service, the Women’s Auxiliary Air Force”, and after the said paragraph there shall be inserted the following paragraphs :—

“(fa) a woman shall be exempted from the said duties during any period throughout which a child (whether her own or not) under the age of fourteen is in her care and is living and sleeping where she lives and sleeps, and a woman who holds a certificate signed by a duly qualified medical practitioner or by a certified midwife certifying that she is pregnant shall be exempted from the said duties during the period of pregnancy and for six weeks thereafter ;

“(fb) a woman shall not be required to perform the said duties outside her working hours at any time between the hours of twelve noon and six p.m. on Saturday or on such other day of the week as the appropriate department may substitute for Saturday ; ”

(5) After paragraph (g) of the proviso to paragraph (1) of the said Article 4 there shall be inserted the following paragraphs :—

“(ga) a person who holds a certificate from a local authority that he is employed as a head fire guard or senior fire guard in the service of that authority shall be exempted from the said duties so long as he continues to be so employed ;

“(gb) a person who holds a certificate signed by or on behalf of the Minister of Health or the Secretary of State for Scotland stating that he is enrolled by a government department or local authority, or any body

or person having the management of a hospital for the purpose of giving assistance without remuneration in connection with the admission or transference of patients in pursuance of arrangements made by the Minister of Health or the Secretary of State for Scotland under paragraph (a) of subsection (1) of section fifty of the Civil Defence Act, 1939, and that at the date of the certificate he was in attendance, elsewhere than at the premises where he works or at the place where he lives, for giving such assistance for periods amounting in the aggregate to not less than forty-eight hours in each period of four weeks, shall be exempted from the said duties so long as he continues to be in attendance for such periods ; ”

(6) In paragraph (h) of the proviso to paragraph (1) of the said Article 4 after the words “ eighteenth day of January, nineteen hundred and forty-one ” there shall be inserted the words “ or (in the case of a woman) the fifteenth day of August, nineteen hundred and forty-two ”, and after the words “ civil defence duties ”, in both places where they occur, there shall be inserted the words “ other than fire prevention duties ”.

(7) In paragraph (i) of the proviso to paragraph (1) of the said Article 4 after the word “ applies ” there shall be inserted the words “ or who has in pursuance of a requirement under sub-paragraph (d) of paragraph (1) of the said Regulation twenty-nine B, taken up part-time employment in any such capacity as aforesaid ”.

(8) In paragraph (l) of the proviso to paragraph (1) of the said Article 4 for the word “ persons ” there shall be substituted the words “ male persons ”, and after the said paragraph there shall be inserted the following paragraph :—

“ (la) the appropriate department may, as respects any premises, exempt from the said duties wholly or partly women who appear to that department to be employed at those premises for exceptionally long hours ; ”

(9) For paragraph (3) of the said Article 4 there shall be substituted the following paragraph :—

“ (3) The tribunal referred to in paragraph (b) of the proviso to paragraph (1) of this Article shall not entertain—

(a) any application made by a male person for exemption from the performance of duties under arrangements in force for any premises which are notified in writing by the appropriate department to the tribunal to be industrial premises used for vital work ; or

(b) any application made by a woman for exemption from the performance of duties under arrangements in force for any premises ;

if, in either case, the sole ground on which the application is made is exceptional hardship arising from the nature of his or her work or from the length of hours thereof or from both, and shall not grant exemption under that paragraph to any such male person or woman on the sole ground of such exceptional hardship as aforesaid.”

(10) At the end of the said Article 4 there shall be added the following paragraph :—

“ (6) If a fire occurs otherwise than as a result of hostile attack at any premises for which arrangements are in force under this order, any person then performing fire prevention duties at the premises under the arrangements shall, on the detection of the fire, take such steps as are immediately practicable to combat the fire and shall summon such assistance as may be necessary.” [286]

2.—(1) In paragraph (1) of Article 5 of the said order the words “ and they receive sufficient instruction to enable them to perform those duties ” shall be omitted.

(2) At the end of paragraph (4) of the said Article 5 there shall be added the words “ and, if persons of both sexes perform outside their working hours duties under the arrangements at the same time, separate provision shall be made for each sex ”, and after the said paragraph there shall be added the following paragraph :—

“(5) Where any persons are required by a local authority, in pursuance of the authority’s duty under paragraph (3) of Regulation twenty-seven B of the Defence (General) Regulations, 1939, to perform duties under arrangements in force for any premises to which this order applies, the provisions of paragraph (2) of this Article, so far as they relate to the reimbursement of travelling expenses and the payment of subsistence allowances, and the provisions of paragraph (4) of this Article shall apply in relation to those persons as if they were mentioned in the said provisions, subject to the modification that, in the case of such of those persons as do not work at the premises for which the arrangements are in force, the words ‘ outside his working hours ’ (wherever they occur) shall be omitted.” [287]

3. After Article 5 of the said order the following Article shall be inserted :—

“5A. Where any person working at premises for which arrangements are in force under this order is employed in night work, the arrangements shall, so far as practicable, secure that—

- (a) if he is ordinarily employed for every week in night work, or is ordinarily employed in night work on not less than twenty nights in twenty-eight—
 - (i) he shall not be required to perform the said duties outside his working hours except on not more than one night in any week, being a night on which he is employed in night work, for a period beginning not earlier than five p.m. and ending when his work begins for the night or for a period beginning after his work has finished for the night and ending not later than eight a.m. on the morning following that night, and
 - (ii) the periods for which he is required to perform the said duties outside his working hours shall not in the aggregate exceed twelve hours in each period of four weeks ;
- (b) if he is employed in night work on a weekly shift system for three weeks in four, or for two weeks in three, or for three weeks in five, or is ordinarily employed in night work on not less than fifteen nights in twenty-eight, the periods for which he is required to perform the said duties outside his working hours shall not in the aggregate exceed twelve hours in each period of four weeks ;
- (c) if he is employed in night work on a weekly shift system for one week in two, or for two weeks in five, or for one week in three, or is ordinarily employed in night work on not less than eight nights in twenty-eight, the said periods shall not in the aggregate exceed twenty-four hours in each period of four weeks ;
- (d) if he is employed in night work on a weekly shift system for one week in four, or is ordinarily employed in night work on not less than five nights in twenty-eight, the said periods shall not in the aggregate exceed thirty-six hours in each period of four weeks :

Provided that nothing in this Article shall prevent a person being required to perform the said duties during a break for food or rest not exceeding one and a half hours in the course of a period of work on any night on which he is employed in night work, and in considering for the purposes of any of the provisions of this Article whether the periods for which he is required to perform the said duties outside his working hours do or do not in the aggregate exceed the relevant amount specified in this Article, any period during any such break on any such night during which he is required to perform the said duties shall be left out of account." [288]

4. For paragraph (2) of Article 8 of the said order there shall be substituted the following paragraph :—

"(2) It shall be the duty of the occupier of any business premises for which joint arrangements are in force under this order to comply with any directions given by the department responsible for the administration of the arrangements as to the manner in which the arrangements are to be carried out, and the duty of providing the equipment referred to in Article 5 of this order and of providing and maintaining the sleeping accommodation, bedding, sanitary conveniences, and facilities for washing referred to in that Article shall, so far as relates to any such business premises as aforesaid, be the duty of the occupier of those premises, and it shall also be his duty to secure, in the case of a person employed at the premises, the reimbursement of travelling expenses and the payment of subsistence allowances." [289]

5. In paragraph (1) of Article 10 of the said order the word "male" shall be omitted and for the words "of the prescribed age" there shall be substituted the words "of the age prescribed for their sex". [290]

6. After Article 11 of the said order the following Article shall be inserted :—

"11A.—(1) The appropriate department for any premises for which arrangements are in force under this order shall make provision for securing that all persons who undertake or are required to perform fire prevention duties under the arrangements receive, as soon as practicable after the commencement of this order or the commencement of their duties (whichever is the later) and thereafter from time to time, instruction and training with respect to the following matters :—

- (a) the characteristics of different types of incendiary bombs and other missiles likely to cause fire and the methods of dealing therewith ;
- (b) the use of fire-fighting equipment and appliances, whether by individuals or by parties or by groups of parties, and the maintenance of such equipment and appliances ;
- (c) the situation of any fire-fighting equipment and appliances and supplies of static water available for use at the premises where the duties are to be performed, and the situation and use of any hydrants, taps, switches and other appliances for controlling any supply of water, gas or electricity available for use at those premises ;
- (d) the methods of giving warning and communicating information, and the situation at the said premises of any telephone or other instrument used for the purpose of giving warning and communicating information ;
- (e) the lay-out of the said premises and in particular the roofs, and the methods of obtaining access to the roofs and other parts of the said premises ;

and every such person as aforesaid shall comply with any directions given to him by the appropriate department requiring him to attend for instruction and training at a specified time and place, whether during or outside his working hours and whether at the premises or elsewhere, and shall also comply with any directions given to him in the course of the instruction and training by the person in charge thereof.

(2) Where arrangements, other than voluntary arrangements, are in force for any premises under this order, the foregoing paragraph shall not apply to any person wholly exempted from fire prevention duties under the arrangements, and the following provisions shall have effect as respects persons who are required by virtue of paragraph (1) of Article 4 of this order to perform such fire prevention duties :—

- (a) any person exempted from the performance of such duties except during his working hours or during a break for food or rest not exceeding one and a half hours in the course of a period of work, shall not be required under the foregoing paragraph to attend for the purpose of receiving instruction and training except during his working hours or during any such break ;
- (b) for the purpose of calculating the aggregate periods for which such duties are required to be performed by any such person outside his working hours, any period for which he is required under this Article to attend outside his working hours for instruction and training shall be included ;
- (c) the amount of any additional travelling expenses reasonably incurred by any such person in consequence of his attendance for instruction and training under this Article shall be reimbursed ;
- (d) subsistence allowances shall be payable in respect of any occasion on which any such person is required under this Article to attend outside his working hours for instruction and training, in like manner in all respects as if he were performing fire prevention duties under the arrangements for the period of his attendance, and, in a case where he is required to attend for instruction and training during or immediately before or after a period for which he is required to perform the said duties, the period of his attendance shall (subject to the provisions of paragraph (2) of Article 5 of this order relating to a continuing period exceeding twenty-four hours) not be treated as a separate occasion.

(3) Where joint arrangements are in force for any premises under this order, the duty of providing instruction and training in accordance with this Article shall be the duty of the department responsible for the administration of the arrangements and that department may, in default of agreement between the several departments and occupiers of the premises for which the joint arrangements are made, give directions apportioning among those departments and occupiers the expenses of providing instruction and training in accordance with this Article and may, in the case of an occupier, recover summarily as a civil debt any sum due from him in respect of those expenses.” [291]

7. In Article 12 of the said order after the words “ by which ” there shall be inserted the words “ or for the purposes of which ”, and at the end of the said Article 12 there shall be added the following paragraph :—

“(2) Any appropriate department may, to such extent and subject to such conditions as it thinks proper, delegate all or any of its functions under this order to any specified persons or class of persons.” [292]

8.—(1) In Article 15 of the said order after the definition of “ business premises ”, “ fire prevention duties ” and “ working hours ” there shall be inserted the following definition :—

“ ‘ certified midwife ’ means a woman certified under the Midwives Acts, 1902 to 1936, or the Midwives (Scotland) Acts, 1915 and 1927, or a woman who is deemed to be a certified midwife by virtue of Regulation thirty-three of the Defence (General) Regulations, 1939 ; ”

and after the definition of “ civil defence duties ” there shall be inserted the following definition :—

“ ‘ fireman ’ means a member of the National Fire Service (whether male or female) holding a rank therein ; ”

(2) At the end of the said Article the following paragraphs shall be added :—

“ (4) For the purposes of this order, a person employed for the purposes of a government department, being a person whose work is not performed at premises occupied for those purposes shall—

- (i) if his employment normally requires him to attend at any such premises at the beginning or end of his daily period of work, be deemed to work at those premises ;
- (ii) if his employment does not require him to attend as aforesaid but requires him to report regularly at any such premises at least once a week, be deemed to work at those premises :

Provided that the appropriate department may exempt any such person from the performance of fire prevention duties under arrangements in force for the premises under this order, if that person is required by his work to travel from place to place and therefore to sleep away from his ordinary place of residence on at least two nights a week.

(5) For the purposes of this order—

- (a) a person shall be deemed to be employed in night work on any night if he performs not less than four hours of work, exclusive of any interval for a meal or a rest, between the hours of ten p.m. and six a.m. on that night ;
- (b) a person shall not be deemed to be employed in night work for any week unless he is so employed on at least five nights in that week ;
- (c) the expression ‘ week ’ means the period between midnight on Sunday night and midnight on the succeeding Sunday night, except that, in a case where the system of work is based upon a seven-day period beginning and ending at times differing from those aforesaid, it means that period.”

[293]

9. In paragraph (c) of Article 16 of the said order after the words “ Article 8 ” there shall be inserted the words “ and Article 11A ”, and after the word “ shall ” there shall be inserted the word “ respectively ”. [294]

10. This order may be cited as the Fire Prevention (Government Premises) (No. 2) Order, 1942, and shall come into force on the seventh day of December, nineteen hundred and forty-two. [295]

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THE FIRE PREVENTION (BUSINESS PREMISES) ORDER, 1942

S. R. & O., 1942, No. 840

May 4, 1942

In pursuance of the powers conferred upon me by Regulations twenty-seven A and thirty-eight of the Defence (General) Regulations, 1939, I hereby order as follows :—

- 1.—(1) For paragraph (a) of the proviso to paragraph (1) of Article 4 of the Fire Prevention (Business Premises) (No. 2) Order, 1941, there shall be substituted the following paragraphs :—

“(a) any such person may, in accordance with the Civil Defence Duties (Exemption Tribunals) Order, 1941, apply to the tribunal mentioned in that order for exemption from fire prevention duties under this order on the ground that he is medically unfit to perform them, and the tribunal may grant such exemption in accordance with the said order, and any such person who has been so exempted, or who has been exempted by the tribunal mentioned in the Defence (Palace of Westminster Fire Prevention) Regulations, 1941, or in the said order from enrolment for, or released or exempted by that tribunal from, the fire prevention duties which he would otherwise be required to perform under the said Regulations, the Fire Prevention (Government Premises) Order, 1942, the Civil Defence Duties (Compulsory Enrolment) Order, 1941, or the Civil Defence Duties (Compulsory Enrolment) (City of London) Order, 1941, as the case may be, on the ground of medical unfitness, shall be exempted from fire prevention duties under this order, so long as the order of the tribunal has effect ;

(aa) any such person may, in accordance with the Civil Defence Duties (Exemption Tribunals) Order, 1941, apply to the tribunal mentioned in that order for exemption from such duties as may be allotted to him under the said arrangements or for a reduction in the aggregate periods for which he may be required to perform such duties on the ground that it would be an exceptional hardship if he were required to perform them or (in the case of an application for a reduction) to perform them for those periods, and the said tribunal may, subject to the provisions of this Article, grant such application in accordance with the said order, and any such person whose application is granted under this paragraph shall, so long as the order of the tribunal has effect, be exempted from the said duties, or, as the case may be, required to perform them for such reduced aggregate periods as may be specified in the order of the tribunal ;”

- (2) After paragraph (f) of the proviso to paragraph (1) of the said Article 4 there shall be inserted the following paragraph :—

“(ff) a person who has in compliance with directions given under paragraph (1) of Regulation twenty-nine BA of the Defence (General) Regulations, 1939, entered the service of a local or harbour authority in a capacity to which Regulation

twenty-nine B of the said Regulations applies shall be exempted from the said duties, so long as he continues to be so employed ; ”

- (3) For paragraph (g) of the proviso to paragraph (1) of the said Article 4 there shall be substituted the following paragraphs :—

“(g) the appropriate authority may, by directions given to the occupier of the premises, exempt from the said duties wholly or partly persons engaged upon such duties as may be specified in the directions being duties undertaken to forestall or mitigate hostile attack on the premises ;

(gg) the appropriate authority may, as respects any premises which appear to that authority to be industrial premises used for vital work, by directions given to the occupier of the premises, exempt from the said duties wholly or partly persons who appear to that authority to be employed on those premises upon such work for exceptionally long hours ; ”

- (4) After paragraph (1) of the said Article 4 there shall be inserted the following paragraphs :—

“(1A) A person exempted under paragraph (aa) of the proviso to the last foregoing paragraph shall not be deemed to be exempted from the performance of the said duties during his working hours or during a break for food or rest not exceeding one and a half hours in the course of a period of work.

(1B) The tribunal referred to in paragraph (aa) of the proviso to paragraph (1) of this Article shall not grant exemption under that paragraph to any person from the performance of duties under arrangements in force for any premises which are notified in writing by the appropriate authority to the tribunal to be industrial premises used for vital work, if the sole ground for exemption is exceptional hardship arising from the nature or length of hours of his work.” [296]

2. For the last sentence of paragraph (2) of Article 5 of the said order there shall be substituted the following proviso :—

“ Provided that—

(a) no subsistence allowance shall be paid to any person in respect of the performance of the said duties at any premises at a time while he is living in a building comprising those premises or in an adjoining or neighbouring building comprising any premises to which the arrangements apply, and for the purposes of this provision a person shall be deemed to be living in a building if he normally sleeps there on not less than three nights a week ;

(b) no subsistence allowance shall be paid in respect of any occasion on which a person performs the said duties during a break for food or rest not exceeding one and a half hours in the course of a period of work ;

(c) a person who performs the said duties outside his working hours for a continuous period exceeding twenty-four hours shall be deemed, after the completion of twenty-four hours, to perform the said duties on a new occasion.” [297]

- 3.—(1) In paragraph (1) of Article 16 of the said order, in the definition of “ local authority ”, after the words “ paragraph (f) ” there shall be inserted the words “ and paragraph (ff) ”, and after the definition of “ prescribed ” there shall be inserted the following definition :—
“ ‘ Regional Commissioner ’ has the same meaning as in Regulation one hundred of the Defence (General) Regulations, 1939.”

- (2) After paragraph (1) of the said Article 16 the following paragraph shall be inserted :—

“(1A) Any reference in this order to any Regulations, Regulation or order shall be construed as a reference to those Regulations or that Regulation or that order as amended by any subsequent Regulations, Regulation or order.”

- (3) In paragraph (d) of Article 17 of the said order, after the words “paragraph (f)” there shall be inserted the words “and paragraph (ff)”. [298]

4.—(1) This order may be cited as the Fire Prevention (Business Premises) Order, 1942.

- (2) This order shall come into operation on the twenty-fifth day of May, nineteen hundred and forty-two. [299]

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THE FIRE PREVENTION (BUSINESS PREMISES) (NO. 2) ORDER, 1942

S. R. & O., 1942, No. 1331

July 4, 1942

In pursuance of the powers conferred upon me by Regulations twenty-seven A and thirty-eight of the Defence (General) Regulations, 1939, I hereby order as follows :—

1. In sub-paragraph (e) of paragraph (1) of Article 14 of the Fire Prevention (Business Premises) (No. 2) Order, 1941, for the words “Board of Trade” there shall be substituted the words “Minister of Fuel and Power”. [300]

2. This Order may be cited as the Fire Prevention (Business Premises) (No. 2) Order, 1942. [301]

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THE FIRE PREVENTION (BUSINESS PREMISES) (NO. 3) ORDER, 1942

S. R. & O., 1942, No. 1655

August 15, 1942

In pursuance of the powers conferred upon me by Regulations twenty-seven A and thirty-eight of the Defence (General) Regulations, 1939, I hereby order as follows :—

- 1.—(1) In paragraph (1) of Article 4 of the Fire Prevention (Business Premises) (No. 2) Order, 1941, as amended by any subsequent order (which order as so amended is hereafter in this order referred to as the “principal order”) the word “male” shall be omitted and for the words “of the prescribed age” there shall be substituted the words “of the age prescribed for their sex”.

- (2) For paragraph (d) of the proviso to paragraph (1) of the said Article 4 there shall be substituted the following paragraphs :—

“(d) a member of the armed forces of the Crown (including a member of the Home Guard and the Auxiliary Coastguard

but not including a member of any reserve or auxiliary force or service who has not been called out for service or has been released from service) shall be exempted from the said duties, but without prejudice to his being required to perform fire prevention duties in accordance with instructions issued by the Admiralty, the Army Council or the Air Council, as the case may be ;

(dd) the following persons shall be exempted from the said duties—

- (i) a member of the Royal Observer Corps ;
- (ii) a constable ;
- (iii) a person certified by a local authority, as defined by the Blind Persons Acts, 1920 and 1938, to be registered as a blind person under arrangements made by the authority under those Acts ;
- (iv) a deaf and dumb person ;
- (v) a person of any such class as may be described ;

(ddd) a woman shall be exempted from the said duties during any period throughout which a child (whether her own or not) under the age of fourteen is in her care and is living and sleeping where she lives and sleeps, and a woman who holds a certificate signed by a duly qualified medical practitioner certifying that she is pregnant shall be exempted from the said duties during the period of pregnancy and for six weeks thereafter ;

(dddd) a woman shall not be required to perform the said duties outside her working hours at any time between the hours of twelve noon and six p.m. on Saturday or on such other day of the week as the appropriate authority may, by a direction given to the occupier of the premises, substitute for Saturday ; ”

(3) After paragraph (e) of the proviso to paragraph (1) of the said Article 4 there shall be inserted the following paragraph :—

“ (ee) a person who holds a certificate from a local authority that he is employed as a head fire guard or senior fire guard in the service of that authority shall be exempted from the said duties so long as he continues to be so employed ; ”

(4) In paragraph (f) of the proviso to paragraph (1) of the said Article 4, after the words “ eighteenth day of January, nineteen hundred and forty-one ” there shall be inserted the words “ or (in the case of a woman) the fifteenth day of August, nineteen hundred and forty-two ”, and after the words “ civil defence duties ”, in both places where they occur, there shall be inserted the words “ other than fire prevention duties ”.

(5) In paragraph (ff) of the proviso to paragraph (1) of the said Article 4, after the word “ applies ” there shall be inserted the words “ or who has in pursuance of a requirement under sub-paragraph (d) of paragraph (1) of the said Regulation twenty-nine B, taken up part-time employment in any such capacity as aforesaid ”.

(6) In paragraph (gg) of the proviso to paragraph (1) of the said Article 4, for the word “ persons ” there shall be substituted the words “ male persons ”, and after the said paragraph there shall be inserted the following paragraph :—

“ (ggg) the appropriate authority may, as respects any premises, by directions given to the occupier thereof, exempt from

the said duties wholly or partly women who appear to that authority to be employed on those premises for exceptionally long hours ; ”

- (7) For paragraph (1B) of the said Article 4 there shall be substituted the following paragraph :—

“ (1B) The tribunal referred to in paragraph (aa) of the proviso to paragraph (1) of this Article shall not entertain—

- (a) any application made by a male person for exemption from the performance of duties under arrangements in force for any premises which are notified in writing by the appropriate authority to the tribunal to be industrial premises used for vital work ; or
- (b) any application made by a woman for exemption from the performance of duties under arrangements in force for any premises ;

if, in either case, the sole ground on which the application is made is exceptional hardship arising from the nature of his or her work or from the length of hours thereof or from both, and shall not grant exemption under that paragraph to any such male person or woman on the sole ground of such exceptional hardship as aforesaid.”

- (8) At the end of the said Article 4 there shall be added the following paragraph :—

“ (4) If a fire occurs otherwise than as a result of hostile attack at any premises for which arrangements are in force under this order, any person then performing fire prevention duties at the premises under the arrangements shall, on the detection of the fire, take such steps as are immediately practicable to combat the fire and shall summon such assistance as may be necessary.” [302]

- 2.—(1) In paragraph (1) of Article 5 of the principal order the words “ and they receive sufficient instruction to enable them to perform those duties ” shall be omitted.

- (2) At the end of paragraph (4) of the said Article 5 there shall be added the words “ and, if persons of both sexes perform outside their working hours duties under the arrangements at the same time, separate provision shall be made for each sex ”. [303]

3. After Article 5 of the principal order the following Article shall be inserted :—

“ 5A. Where any person working at premises for which arrangements are in force under this order is employed in night work, the arrangements shall, so far as practicable, secure that—

- (a) if he is ordinarily employed for every week in night work, or is ordinarily employed in night work on not less than twenty nights in twenty-eight—
 - (i) he shall not be required to perform the said duties outside his working hours except on not more than one night in any week, being a night on which he is employed in night work, for a period beginning not earlier than five p.m. and ending when his work begins for the night or for a period beginning after his work has finished for the night and ending not later than eight a.m. on the following day ; and
 - (ii) the periods for which he is required to perform the said duties outside his working hours shall not in the aggregate exceed twelve hours in each period of four weeks ;
- (b) if he is employed in night work on a weekly shift system for three weeks in four, or for two weeks in three, or for three weeks in five,

- or is ordinarily employed in night work on not less than fifteen nights in twenty-eight, the periods for which he is required to perform the said duties outside his working hours shall not in the aggregate exceed twelve hours in each period of four weeks ;
- (c) if he is employed in night work on a weekly shift system for one week in two, or for two weeks in five, or for one week in three, or is ordinarily employed in night work on not less than eight nights in twenty-eight, the said periods shall not in the aggregate exceed twenty-four hours in each period of four weeks ;
- (d) if he is employed in night work on a weekly shift system for one week in four, or is ordinarily employed in night work on not less than five nights in twenty-eight, the said periods shall not in the aggregate exceed thirty-six hours in each period of four weeks :

Provided that nothing in this Article shall prevent a person being required to perform the said duties on any night on which he is employed in night work during a break for food or rest not exceeding one and a half hours in the course of a period of work, and in considering for the purposes of any of the provisions of this Article whether the periods for which he is required to perform the said duties outside his working hours do or do not in the aggregate exceed the relevant amount specified in this Article, any period during any such break on any such night during which he is required to perform the said duties shall be left out of account." [304]

4. After Article 13 of the principal order the following paragraph shall be inserted :—

" 13A.—(1) The occupier of any premises for which arrangements are in force under this order shall make provision for securing that all persons who undertake or are required to perform fire prevention duties under the arrangements receive, as soon as practicable after the date of this order or the commencement of their duties (whichever is the later) and thereafter from time to time, instruction and training with respect to the following matters :—

- (a) the characteristics of different types of incendiary bombs and other missiles likely to cause fire and the methods of dealing therewith ;
- (b) the use of fire-fighting equipment and appliances, whether by individuals or by parties or by groups of parties, and the maintenance of such equipment and appliances ;
- (c) the situation of any fire-fighting equipment and appliances and supplies of static water available for use at the premises where the duties are to be performed, and the situation and use of any hydrants, taps, switches and other appliances for controlling any supply of water, gas or electricity available for use at those premises ;
- (d) the methods of giving warning and communicating information, and the situation at the said premises of any telephone or other instrument used for the purpose of giving warning and communicating information ;
- (e) the lay-out of the said premises and in particular the roofs, and the methods of obtaining access to the roofs and other parts of the said premises ;

and every such person as aforesaid shall comply with any directions given to him by the occupier or a person authorised by the occupier requiring him to attend for instruction and training at a specified time and place, whether during or outside his working hours and whether at the premises or elsewhere, and shall also comply with any directions given to him in the course of the instruction and training by the person in charge thereof.

(2) Where arrangements, other than voluntary arrangements, are in force for any premises under this order, the foregoing paragraph shall not apply to

any person wholly exempted from fire prevention duties under the arrangements, and the following provisions shall have effect as respects persons who are required by virtue of paragraph (1) of Article 4 of this order to perform such fire prevention duties :—

- (a) any person exempted from the performance of such duties except during his working hours or during a break for food or rest not exceeding one and a half hours in the course of a period of work, shall not be required under the foregoing paragraph to attend for the purpose of receiving instruction and training except during his working hours or during any such period ;
- (b) for the purpose of calculating the aggregate periods for which such duties are required to be performed by any such person outside his working hours, any period for which he is required under this Article to attend outside his working hours for instruction and training shall be included ;
- (c) the amount of any additional travelling expenses reasonably incurred by any such person in consequence of his attendance for instruction and training under this Article shall be reimbursed ;
- (d) subsistence allowances shall be payable in respect of any occasion on which any such person is required under this Article to attend outside his working hours for instruction and training, in like manner in all respects as if he were performing fire prevention duties under the arrangements for the period of his attendance, and, in a case where he is required to attend for instruction and training during or immediately before or after a period for which he is required to perform the said duties, the period of his attendance shall (subject to the provisions of paragraph (2) of Article 5 of this order relating to a continuing period exceeding twenty-four hours) not be treated as a separate occasion.

(3) The occupier of any premises shall, in providing instruction and training in accordance with this Article, comply with any directions given by the appropriate authority.

(4) Where joint arrangements are in force for any premises under this order, the appropriate authority may, in default of agreement between the occupiers of the several premises, give directions apportioning among those occupiers the expenses of providing instruction and training in accordance with this Article.

(5) If the occupier of any premises fails to provide instruction and training in accordance with this Article, the appropriate authority may themselves do so and recover from the occupier summarily as a civil debt any expenses thereby incurred by the authority :

Provided that nothing in this paragraph shall prejudice any criminal proceedings for any such failure.” [305]

5.—(1) In Article 16 of the principal order, after the definition of “ civil defence duties ” there shall be inserted the following definition :—

“ ‘ fireman ’ means a member of the National Fire Service (whether male or female) holding a rank therein.”

(2) At the end of the said Article the following paragraphs shall be added :—

“ (3) For the purposes of this order, a person employed for the purposes of any business, trade or profession, being a person whose work is not performed at premises occupied for those purposes, shall—

- (i) if his employment normally requires him to attend at any such premises at the beginning or end of his daily period of work, be deemed to work at those premises ;

- (ii) if his employment does not require him to attend as aforesaid but requires him to report regularly at any such premises at least once a week, be deemed to work at those premises :

Provided that the appropriate authority may by directions given to the occupier of the premises exempt any such person from the performance of fire prevention duties under arrangements in force for the premises under this order, if that person is required by his work to travel from place to place and therefore to sleep away from his ordinary place of residence on at least two nights a week.

(4) For the purposes of this order—

- (a) a person shall be deemed to be employed in night work on any night if he performs not less than four hours of work, exclusive of any interval for a meal or a rest, between the hours of ten p.m. and six a.m. on that night ;
- (b) a person shall not be deemed to be employed in night work for any week unless he is so employed on at least five nights in that week ;
- (c) the expression ' week ' means the period between midnight on Sunday night and midnight on the succeeding Sunday night, except that, in a case where the system of work is based upon a seven-day period beginning and ending at times differing from those aforesaid, it means that period." [306]

6. This order may be cited as the Fire Prevention (Business Premises) (No. 3) Order, 1942, and shall come into force on the fourteenth day of September, nineteen hundred and forty-two. [307]

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THE FIRE PREVENTION (BUSINESS PREMISES) (NO. 4) ORDER, 1942

S. R. & O., 1942, No. 2500

December 5, 1942

In pursuance of the powers conferred upon me by Regulations twenty-seven A and thirty-eight of the Defence (General) Regulations, 1939, I hereby order as follows :—

1. After the word " practitioner " in paragraph (*ddd*) of the proviso to paragraph (1) of Article 4 of the Fire Prevention (Business Premises) (No. 2) Order, 1941, as amended by any subsequent order (which order as so amended is hereafter in this order referred to as the " principal order ") there shall be inserted the words " or by a certified midwife ". [308]

2. At the end of Article 5 of the principal order there shall be added the following paragraph :—

" (5) Where any persons are required by a local authority, in pursuance of the authority's duty under paragraph (3) of Regulation twenty-seven B of the Defence (General) Regulations, 1939, to perform duties under arrangements in force for any premises to which this order applies, the provisions of paragraph (2) of this Article, so far as they relate to the reimbursement of travelling expenses and the payment of subsistence allowances, and the provisions of paragraph 4 of this Article shall apply in relation to those persons as if they were mentioned in the said provisions, subject to the modification that, in the case of such of

those persons as do not work at the premises for which the arrangements are in force, the words 'outside his working hours' (wherever they occur) shall be omitted." [309]

3. In paragraph (1) of Article 12 of the principal order the word "male" shall be omitted, and for the words "prescribed age" there shall be substituted the words "age prescribed for their sex". [310]

4. In Article 16 of the principal order after the definitions of "business premises", "fire prevention duties" and "working hours" there shall be inserted the following definition:—

"'certified midwife' means a woman certified under the Midwives Acts, 1902 to 1936, or the Midwives (Scotland) Acts, 1915 and 1927, or a woman who is deemed to be a certified midwife by virtue of Regulation thirty-three of the Defence (General) Regulations, 1939; "

5. This order may be cited as the Fire Prevention (Business Premises) (No. 4) Order, 1942, and shall come into force on the seventh day of December, nineteen hundred and forty-two. [311]

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THE ESSENTIAL WORK (RECALL TO NATIONAL FIRE SERVICE) ORDER, 1942

S. R. & O., 1942, No. 1115

June 10, 1942

The Minister of Labour and National Service by virtue of the powers conferred on him by Regulations 58A and 98 of the Defence (General) Regulations, 1939, hereby makes the following Order.

1. This Order may be cited as the Essential Work (Recall to National Fire Service) Order, 1942, and shall come into force on the 20th June, 1942. [312]

2. Where—

(a) under the provisions of any Regulations made by the Secretary of State under the Fire Services (Emergency Provisions) Act, 1941, as amended by the Defence (National Fire Service) Regulations, 1941, a whole time fireman has been placed on reserve, either for a specified period or indefinitely, by the person having power to discharge him and the fireman is subsequently recalled to whole-time service or the specified period expires; and

(b) the fireman is at the date of such recall or expiry (as the case may be)

(i) employed in an undertaking or by an employer in respect of which employment permission is, under the provisions of that one of the Orders set out in the Schedule hereto which is applicable to the case, necessary before he leaves his employment, or

(ii) a member of a body of persons in respect of which membership the permission as aforesaid or any period of notice is necessary before he ceases to be such member;

then and in that case the fireman shall be entitled to leave his employment or to cease to be such member without obtaining such permission as aforesaid and without giving any notice that may be provided for by or under the said Order in order to return to whole-time service as a fireman. [313]

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SCHEDULE

- The Essential Work (General Provisions) Orders, 1942 (S. R. & O., 1942, Nos. 371 and 588).
- The Essential Work (Agriculture) (Scotland) Order, 1941 (S. R. & O., 1941, No. 1557).
- The Essential Work (Building and Civil Engineering) Orders, 1941 and 1942 (S. R. & O., 1941, No. 2067 and 1942, No. 591).
- The Essential Work (Coalmining Industry) (No. 3) Order, 1941 (S. R. & O., 1941, No. 2096).
- The Essential Work (Dock Labour) Order, 1941 (S. R. & O., 1941, No. 1440).
- The Essential Work (Merchant Navy) Order, 1941 (S. R. & O., 1941, No. 634).
- The Essential Work (Shipbuilding and Ship-repairing) Order, 1942 (S. R. & O., 1942, No. 266). [314]

THE CIVIL DEFENCE DUTIES (COMPULSORY ENROLMENT)
(CITY OF LONDON) ORDER, 1942

S. R. & O., 1942, No. 1269

June 27, 1942

In pursuance of the powers conferred upon me by Regulations twenty-six A, twenty-seven A and thirty-eight of the Defence (General) Regulations, 1939, I hereby order as follows :—

1. In paragraph (1) of Article 1 of the Civil Defence Duties (Compulsory Enrolment) (City of London) Order, 1941 (hereafter in this order referred to as "the principal order"), after the words "no such persons" there shall be inserted the words "and may also from time to time, by notice so published, require the appropriate department for any premises in the City which at the date of the notice are government premises to make a like return for those premises", and the words "unless he works at those premises for periods amounting on the average to not less than ten hours in each week, or" shall be omitted. [315]
- 2.—(1) At the end of paragraph (1) of Article 2 of the principal order the following proviso shall be added :—

"Provided that if the appropriate department for any government premises notifies in writing the Common Council that no persons or only a specified number of persons working at those premises are available for such enrolment, the Common Council shall not enrol, or shall limit the enrolment of, such persons in accordance with the notice."

(2) At the end of sub-paragraph (b) of paragraph (5) of the said Article 2 there shall be added the words "or the Fire Prevention (Government Premises) Order, 1942." [316]
- 3.—(1) For paragraphs (2) and (3) of Article 3 of the principal order there shall be substituted the following paragraphs :—

"(2) Any person registered under this order may apply to the tribunal mentioned in paragraph (3) of this Article for exemption from enrolment under this order, or, if he has been so enrolled, for release from the duties required of him by virtue of his enrolment, on the ground that he is medically unfit to perform such duties, and the tribunal may grant such application, and any such person whose application has been granted under this paragraph, or who has been exempted by the tribunal mentioned in the Defence

(Palace of Westminster Fire Prevention) Regulations, 1941, or in the Civil Defence Duties (Exemption Tribunals) Order, 1941, from enrolment for, or released or exempted by that tribunal from, the fire prevention duties which he would otherwise be required to perform under the said Regulations, the Fire Prevention (Business Premises) (No. 2) Order, 1941, the Fire Prevention (Government Premises) Order, 1942, or the Civil Defence Duties (Compulsory Enrolment) Order, 1941, as the case may be, on the ground of medical unfitness, shall be exempted from enrolment under this order or, if he has been so enrolled, shall be released from the duties required of him by virtue of his enrolment, so long as the order of the tribunal has effect.

(2A) Any person registered under this order may apply to the tribunal mentioned in the next following paragraph for exemption from enrolment under this order, or, if he has been so enrolled, for release from the duties required of him by virtue of his enrolment or for a reduction in the aggregate periods for which he may be required to perform such duties, on the ground that it would be an exceptional hardship if he were required to perform such duties or (in the case of an application for a reduction) to perform them for those periods, and the said tribunal may grant such application, and any such person whose application is granted under this paragraph shall, so long as the order of the tribunal has effect, be exempted from such enrolment, released from the said duties, or, as the case may be, required to perform those duties for such reduced aggregate periods as may be specified in the order of the tribunal :

Provided that the tribunal shall not grant any application under this paragraph to any person employed at business or government premises which are notified in writing to the tribunal by the appropriate authority or, as the case may be, the appropriate department for those premises to be industrial premises used for vital work, if the sole ground of the application is exceptional hardship arising from the nature or length of hours of his work at those premises.

(3) An application under either of the last two foregoing paragraphs shall be made in accordance with the Civil Defence Duties (Exemption Tribunals) Order, 1941, to the tribunal mentioned in Article 1 of that order, and for the purposes of any such application—

- (a) that order shall have effect as if references to paragraph (2) of Article 4 of the Civil Defence Duties (Compulsory Enrolment) Order, 1941, included references to the said paragraphs ; and
- (b) the Minister may make such adaptations in the form of the notice of application as appear to him to be necessary.

(3A) Any person registered under this order who produces to the Common Council a certificate from a Fire Force Commander or an officer designated by the Secretary of State that, at the time when the certificate was issued, he was performing duties as a fireman of the National Fire Service for periods amounting in the aggregate to not less than forty-eight hours in each month, shall be exempted from enrolment under this order or, if he has been so enrolled, shall be released from the duties required of him by virtue of his enrolment, so long as he continues to perform duties as such a fireman for such periods."

- (2) After paragraph (5) of the said Article 3, the following paragraph shall be inserted :—

"(5A) Any person registered under this order who has in compliance with directions given under paragraph (1) of Regulation twenty-nine BA of the Defence (General) Regulations, 1939, entered the service of a local or harbour authority for employment in a capacity to which Regulation twenty-nine B of the said Regulations applies, shall, so long as he continues to be so employed,

be exempted from enrolment under this order, or, if he has been so enrolled, shall be released from the duties required of him by virtue of his enrolment."

- (3) For paragraph (6) of the said Article 3 the following paragraphs shall be substituted :—

"(6) Any person registered under this order who produces to the Common Council a certificate, signed by or on behalf of the appropriate authority for any business premises or the appropriate department for any government premises, stating—

- (a) that he is engaged upon duties undertaken to forestall or mitigate hostile attack on the premises ; or
- (b) that the premises are industrial premises used for vital work and he is employed at those premises upon such work for exceptionally long hours ;

and that he ought to be exempted from enrolment under this order, or, if he has been so enrolled, released from the duties required of him by virtue of his enrolment, or ought only to be required to perform those duties for such reduced aggregate periods as may be specified in the certificate, he shall, so long as he continues to be so engaged or employed, be exempted from such enrolment, released from the said duties, or, as the case may be, required to perform those duties for such reduced aggregate periods.

(6A) Where it appears to any government department that any person ought, owing to the nature or length of hours of his work or any circumstances affecting the public interest, to be exempted from enrolment under this order or, if he has been so enrolled, released from the duties required of him by virtue of his enrolment, it may grant him a certificate of exemption, and any person registered under this order who produces to the Common Council such a certificate or a certificate of exemption granted by a government department under the corresponding provision of any other order made under Regulation twenty-six A or Regulation twenty-seven A of the Defence (General) Regulations, 1939, shall be exempted from such enrolment or released from the said duties, as the case may be."

- (4) In paragraph (7) of the said Article 3, after the words " business premises ", in both places where they occur, there shall be inserted the words " or government premises ". [317]

4. In Article 4 of the principal order after the words " business premises ", in both places where they occur, there shall be inserted the words " or government premises " and after the words " occupier of ", in both places where they occur, there shall be inserted the words " or, as the case may be, appropriate department for ". [318]

- 5.—(1) In Article 6 of the principal order after the definition of the expressions " business premises " and " fire prevention duties " the following definition shall be inserted :—

" ' government premises ' means any premises to which the Fire Prevention (Government Premises) Order, 1942, applies ".

- (2) At the end of the said Article 6 the following paragraph shall be added :—

" (2) Any reference in this order to any Regulations, Regulation or order shall be construed as a reference to those Regulations or that Regulation or that order as amended by any subsequent Regulations, Regulation or order."

[319]

6. This order may be cited as the Civil Defence Duties (Compulsory Enrolment) (City of London) Order, 1942. [320]

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**THE CIVIL DEFENCE DUTIES (COMPULSORY ENROLMENT)
(CITY OF LONDON) (NO. 2) ORDER, 1942**

S. R. & O., 1942, No. 2288

November 4, 1942

In pursuance of the powers conferred upon me by Regulations twenty-six A, twenty-seven A and thirty-eight of the Defence (General) Regulations, 1939, I hereby order as follows :—

1.—(1) The Common Council of the City of London (hereinafter in this order referred to as “ the Common Council ”) may from time to time—

(a) by notice published as hereafter provided, require every person who is at the date of the notice the occupier of business premises in the City to make a return under this Article with respect to those premises ;

(b) by notice served on the occupier of any business premises in the City or on the appropriate department for any government premises in the City, require that occupier or department to make a return under this Article with respect to those premises.

(2) Every such return shall be made on such date and at such place and in such manner as may be specified in the notice and shall specify the persons who, at the date of the notice, were registrable under this order and were working at the premises at that date or, as the case may be, shall state that there are no such persons :

Provided that, except so far as may be otherwise directed by the notice, no person shall be included in such a return if he is already registered under this order.

(3) The persons registrable under this order are persons (whether already registered under this order or not) who are male British subjects and have attained the age of eighteen years and have not attained the age of sixty years and are not persons of any of the classes referred to in the First Schedule to this order.

(4) Returns made under this Article shall give as respects every person included therein the following particulars—

(a) his name, age and date of birth, national registration number and place of residence ;

(b) whether he intends to make an application or claim under paragraph (2) of Article 3 of this order and the provisions of the Second Schedule to this order, or under any of paragraphs (3) to (6) of the said Article, for exemption from enrolment under this order, together with such particulars of the intended application or claim as may be specified in the notice, or, in the case of a person already registered under this order, whether he has made such an application or claim or has obtained such exemption ;

(c) such other particulars as may with the approval of the Minister be so specified.

(5) Any such notice as is referred to in sub-paragraph (a) of paragraph (1) of this Article shall be published by posting copies thereof at the Guildhall and in conspicuous places in the City, or in such other manner as may be approved by the Minister, and any such notice as is referred to in sub-paragraph (b) of the said paragraph (1) may be served on the occupier of any business premises, in addition to any other mode of service, by delivering it or sending it by post addressed to him at those premises.

(6) Where—

- (a) any person begins to work at any business premises or government premises in the City, being a person registrable under this order, or
- (b) any person working at any such premises becomes so registrable by reason of his attaining the age of eighteen years or ceasing to be a person of any of the classes referred to in the First Schedule to this order,

the occupier of, or, as the case may be, the appropriate department for, the premises shall, within one month, make a return to the Common Council stating that fact and giving as respects that person the particulars referred to in paragraphs (a) and (b) of paragraph (4) of this Article.

(7) Any person as respects whom a return is made under this Article shall, if he is not already registered by the Common Council under this order, be so registered. [321]

2.—(1) The Common Council may serve on any person registered under this order a notice stating that he has been enrolled for the performance of fire prevention duties in the City, and thereupon he shall be deemed to have been so enrolled.

(2) A notice served under this Article is hereafter in this order referred to as an "enrolment notice".

(3) Every enrolment notice shall specify the person or persons, or describe the class of persons, by whom there may be given, to the person deemed to be enrolled by virtue of the notice, directions defining the fire prevention duties to be performed by him, and the time, place and manner of their performance, and the person or persons so specified or of the class so described may give directions accordingly:

Provided that—

- (a) the person or persons or class of persons authorised to give such directions may be varied from time to time by a further notice served by the Common Council; and
- (b) the periods for which a person enrolled by virtue of any such notice is required by any such directions to perform duties shall not in the aggregate exceed forty-eight hours in each period of four weeks.

(4) Subject as hereinafter provided, a notice under this Article may, in addition to any other mode of service, be served on any person by delivering it or sending it by post addressed to him at any premises at which he has been returned under this order as working.

(5) The appropriate department for any government premises may from time to time notify in writing the Common Council that no persons or only a specified number of persons working at those premises are available for the performance of duties under this order, and thereupon the Common Council shall either—

- (a) not enrol any such persons and release any such persons who have already been enrolled; or
- (b) limit the enrolment of such persons in accordance with the notice and, if the number of such persons already enrolled exceeds the specified number, release a number equal to the excess;

as the case may be. [322]

3.—(1) Any person registered under this order who was, at the date of registration, or who subsequently becomes, a person of any of the classes referred to in the First Schedule to this order shall be exempted from enrolment under this order or, if he has been so enrolled, shall be released by the Common Council from the duties required of him by virtue of his enrolment.

(2) The provisions of the Second Schedule to this order shall have effect with respect to the persons referred to therein, and accordingly those persons shall, subject to and in accordance with the provisions of the said Schedule, be exempted from enrolment under this order, released from the duties required of them by virtue of such enrolment, or entitled to a reduction of their liability to perform those duties, as the case may be.

(3) Any person registered under this order may apply to the tribunal mentioned in paragraph (5) of this Article to be exempted from enrolment under this order, or, if he has been so enrolled, for release from the duties required of him by virtue of his enrolment, on the ground that he is medically unfit to perform those duties, and the tribunal may grant such application, and any person whose application has been granted under this paragraph, or who has been exempted by the tribunal mentioned in the Defence (Palace of Westminster Fire Prevention) Regulations, 1941, or in the Civil Defence Duties (Exemption Tribunals) Order, 1942, from enrolment for, or released or exempted by that tribunal from, the fire prevention duties which he would otherwise be required to perform under the said Regulations, the Fire Prevention (Business Premises) (No. 2) Order, 1941, the Fire Prevention (Government Premises) Order, 1942, or the Civil Defence Duties (Compulsory Enrolment) Order, 1942, as the case may be, on the ground of medical unfitness, shall, so long as the order of the tribunal has effect, be exempted from enrolment under this order or, if he has been so enrolled, be released from the duties required of him by virtue of his enrolment.

(4) Any person registered under this order may apply to the tribunal mentioned in paragraph (5) of this Article to be exempted from enrolment under this order, or, if he has been so enrolled, for release from the duties required of him by virtue of his enrolment or for a reduction in the aggregate periods for which he may be required to perform such duties, on the ground that it would be an exceptional hardship if he were required to perform such duties or (in the case of an application for a reduction) to perform them for those periods, and the tribunal may grant such application, and any such person whose application has been granted under this paragraph shall, so long as the order of the tribunal has effect, be exempted from such enrolment, released from the said duties, or, as the case may be, required to perform those duties for such reduced aggregate periods as may be specified in the order of the tribunal :

Provided that the tribunal shall not entertain any application made under this paragraph by any person employed at business premises or government premises which are notified in writing to the tribunal by the appropriate authority or, as the case may be, the appropriate department for those premises to be industrial premises used for vital work, if the sole ground of the application is exceptional hardship arising from the nature of his work or from the length of hours thereof or from both, and shall not grant exemption under this paragraph to any person on the sole ground of such exceptional hardship as aforesaid.

(5) An application under paragraph (3) or paragraph (4) of this Article shall be made in accordance with the Civil Defence Duties (Exemption Tribunals) Order, 1942, to the tribunal mentioned in Article 1 of that order, and for the purposes of any such application—

- (a) that order shall have effect as if references to paragraph (3) and paragraph (4) of Article 4 of the Civil Defence Duties (Compulsory Enrolment) Order, 1942, included references to paragraph (3) and paragraph (4) of this Article, respectively ; and
- (b) the Minister may make such adaptations in the form of the notice of application as appear to him to be necessary.

(6) Where it appears to any government department that any person ought, owing to the nature or length of hours of his work or any circumstances affecting the public interest, to be exempted from enrolment under this order, they may grant to him a certificate of exemption, and any person registered by a local authority under this order who holds such a certificate or a certificate of exemption granted by any government department in the exercise of powers conferred by paragraph (h) of the proviso to paragraph (1) of Article 4 of the Fire Prevention (Business Premises) (No. 2) Order, 1941, or paragraph (m) of the proviso to paragraph (1) of Article 4 of the Fire Prevention (Government Premises) Order, 1942, or paragraph (6) of Article 4 of the Civil Defence Duties (Compulsory Enrolment) Order, 1942, shall be exempted from enrolment under this order, or, if he has been so enrolled, be released from the duties required of him by virtue of his enrolment.

(7) Any person registered under this order who satisfies the Common Council that he has ceased to work at business premises or government premises in the City, shall, so long as he continues not to work at business premises or government premises in the City, be exempted from enrolment under this order, or, if he had been so enrolled, be released from the duties required of him by virtue of his enrolment. [323]

4.—(1) Where any person registered under this order—

- (a) begins or ceases to work at any business premises or government premises in the City ;
- (b) becomes a person of any of the classes referred to in the First Schedule to this order ; or
- (c) ceases to be entitled to any exemption or release from duties granted to him by virtue of paragraph (2) of the last foregoing Article and the Second Schedule to this order, or by virtue of any of the paragraphs (3) to (6) of the last foregoing Article,

the occupier of, or the appropriate department for, those premises shall, within one month, make a return to the Common Council stating that fact.

(2) It shall be the duty of every person who works at any business premises or government premises in the City to furnish the occupier of, or, as the case may be, the appropriate department for, those premises with such particulars about himself as may be required to enable any return for those premises to be made in accordance with this order. [324]

5.—(1) Any obligation imposed by or under this order on the occupier of any business premises to make a return shall not extend to the Common Council in respect of business premises occupied by them, but—

- (a) the Common Council shall register under this order all persons who would have fallen to be included by them in a return under Article 1 of this order in respect of any business premises so occupied, if the Common Council had been in respect thereof under the like obligation under that Article as other occupiers of business premises in the City ;
- (b) it shall be the duty of every person who works at any business premises in the City occupied by the Common Council to furnish them with such particulars about himself as may be required to enable them to determine whether he should or should not be registered by them under this order. [325]

6. A certificate purporting to be signed by the town clerk of the City and—

- (a) certifying that a person of the name and description specified in the certificate is registered under this order,

- (b) certifying that an enrolment notice has been served on a person of the name and description so specified, and stating the contents of the notice and the date and mode of service thereof,

shall, unless the contrary is proved, be sufficient evidence of the facts stated in the certificate and be deemed to be signed by the said town clerk. [326]

7.—(1) Every person who is required to perform fire prevention duties by virtue of enrolment under this order shall comply with any directions given to him by a person authorised by the Common Council, or a person of a class so authorised, to attend at a specified time and place for the purpose of receiving instruction and training as hereinafter provided, and shall also comply with any directions given to him in the course of the instruction and training by the person in charge thereof.

(2) The said instruction and training may comprise all or any of the following matters :—

- (a) the characteristics of different types of incendiary bombs and other missiles likely to cause fire and the methods of dealing therewith ;
- (b) the use of fire-fighting equipment and appliances, whether by individuals or by parties or by groups of parties, and the maintenance of such equipment and appliances ;
- (c) the situation of any fire-fighting equipment and appliances and supplies of static water available for use at the premises to be guarded, and the situation and use of any hydrants, taps, switches and other appliances for controlling any supply of water, gas or electricity available for use at those premises ;
- (d) the methods of giving warning and communicating information, and the situation at the said premises of any telephone or other instrument used for the purpose of giving warning and communicating information ;
- (e) the lay-out of the said premises and in particular the roofs, and the methods of obtaining access to the roofs and other parts of the said premises.

(3) For the purpose of calculating the aggregate periods for which any such person as aforesaid is required to perform fire prevention duties in any period of four weeks, any period for which he is required under this Article to attend for instruction and training shall be included. [327]

8.—(1) In this order, except so far as the contrary is expressly provided, the following expressions have the meanings hereby respectively assigned to them, that is to say :—

“ appropriate authority ” has the same meaning as in the Fire Prevention (Business Premises) (No. 2) Order, 1941 ;

“ appropriate department ” has the same meaning as in the Fire Prevention (Government Premises) Order, 1942 ;

“ business premises ” has the same meaning as in Regulation twenty-seven A of the Defence (General) Regulations, 1939 ;

“ civil defence duties ” has the same meaning as in Regulation twenty-six A of the said Regulations ;

“ fire prevention duties ” has the same meaning as in Regulation twenty-seven A of the said Regulations ;

“ government premises ” means any premises to which the Fire Prevention (Government Premises) Order, 1942, applies ;

“ local authority ” means the council of a county, county borough, county district or metropolitan borough ;

“ period of four weeks ” means the period of four weeks beginning with the twenty-second day of September, nineteen hundred and forty-one, and any period of four weeks beginning with the date exactly four

weeks, or an exact multiple of four weeks, after the first-mentioned date ;

“period of twelve weeks ” means the period of twelve weeks beginning with the twenty-second day of September, nineteen hundred and forty-one, and any period of twelve weeks beginning with the date exactly twelve weeks, or an exact multiple of twelve weeks, after the first-mentioned date ;

“ the City ” means the City of London and includes the Inner Temple and the Middle Temple ;

“ the Minister ” means the Minister of Home Security ;

“ working hours ”, in relation to any person who works at business premises or government premises, means any period during which that person is engaged in, or employed for the purposes of, any business, trade or profession carried on at those premises or any of them or, in the case of government premises, is employed for the purposes for which those premises are used.

(2) For the purposes of this order, a person employed for the purposes of any business, trade or profession or for the purposes of a government department, being a person whose work is not performed at premises occupied for those purposes shall—

- (a) if his employment normally requires him to attend at any such premises at the beginning or end of his daily period of work, be deemed to work at those premises ;
- (b) if his employment does not require him to attend as aforesaid but requires him to report regularly at any such premises at least once a week, be deemed to work at those premises.

(3) Any reference in this order to all or any of the provisions of any other order shall be construed as a reference to those provisions as amended by any subsequent order or, if those provisions are revoked and re-enacted with or without modification, to the provisions so re-enacted. [328]

9.—(1) After paragraph (2) of Article 7 of the Civil Defence Duties (Compulsory Enrolment) Order, 1942, there shall be inserted the following paragraph :—

“(2A) For the purposes of this order the Inner Temple and the Middle Temple shall be deemed to be in the area of the Common Council of the City of London.”

(2) In the heading to Part I of the Second Schedule of the said order the words “ other than fire prevention ” shall be omitted and at the end of the said Part I there shall be added the following paragraph :—

“ 5. Any person registered by a local authority under this order who produces to that authority a certificate from the Common Council of the City of London that he is required by virtue of his enrolment under the Civil Defence Duties (Compulsory Enrolment) (City of London) (No. 2) Order, 1942, to perform fire prevention duties in the City or has undertaken to perform for periods amounting in the aggregate to not less than forty-eight hours in each period of four weeks fire prevention duties in the City shall, so long as the certificate is in force and he continues to perform the said duties or, as the case may be, the said duties for the said periods, be exempted from enrolment under this order, or, if he has been so enrolled, be released from the duties required of him by virtue of his enrolment.”

(3) In paragraph (c) of the proviso to paragraph (1) of Article 4 of the Fire Prevention (Business Premises) (No. 2) Order, 1941, and in paragraph (d) of the proviso to paragraph (1) of Article 4 of the Fire Prevention (Government

Premises) Order, 1942, after the words "the said duties" there shall be inserted the words "outside his working hours". [329]

10.—(1) The Civil Defence Duties (Compulsory Enrolment) (City of London) Order, 1941, and the Civil Defence Duties (Compulsory Enrolment) (City of London) Order, 1942, are hereby revoked.

(2) Any notice, return, direction, registration, exemption, release, certificate, application or thing, published, served, made, given, effected, granted, issued, made or done in the exercise of powers conferred by any provision of the orders revoked by this order shall, if it is in force at the date when this order comes into force and could have been published, served, made, given, effected, granted, issued, made or done in the exercise of powers conferred by a corresponding provision of this order, be deemed, for the purposes of this order to have been so published, served, made, given, effected, granted, issued, made or done, and any reference in any order made under Regulations twenty-six A, twenty-seven A and thirty-eight of the Defence (General) Regulations, 1939, to any order revoked by this order or to any provision of any such order shall be construed as including a reference to this order or to the corresponding provision of this order. [330]

11. This order may be cited as the Civil Defence Duties (Compulsory Enrolment) (City of London) (No. 2) Order, 1942, and shall come into force on the eleventh day of November, nineteen hundred and forty-two. [331]

* * * * *

FIRST SCHEDULE

PERSONS EXEMPTED FROM REGISTRATION

1. Any member of any of the armed forces of the Crown (including a member of the Home Guard or the Auxiliary Coastguard but not including a member of any reserve or auxiliary force or service who has not been called out for service or has been released from service).

2. Any member of the Royal Observer Corps.

3. Any constable.

4. Any pilot holding a licence issued under the Pilotage Act, 1913, or a deep sea certificate granted by a pilotage authority authorised by a Pilotage Order to grant such certificates.

5. Any duly qualified medical practitioner.

6. Any master or any member of the crew of a ship engaged in sea-going service.

7. Any person certified by a local authority, as defined by the Blind Persons Acts, 1920 and 1938, to be registered as a blind person under arrangements made by the authority under those Acts.

8. Any deaf and dumb person.

9. Any person of any such class as may be prescribed. [332]

SECOND SCHEDULE

PERSONS EXEMPTED FROM ENROLMENT, RELEASED FROM DUTIES, OR LIABLE FOR REDUCED DUTIES

PART I

Persons performing civil defence duties in service of Common Council or local authority

1. Any person registered under this order who satisfies the Common Council that, before the eighteenth day of January, nineteen hundred and forty-one, he had undertaken to perform civil defence duties other than fire prevention duties in the City for periods amounting in the aggregate to not less than forty-eight hours

in each period of four weeks, shall, so long as he continues to perform such duties for such periods in the City, be exempted from enrolment under this order, or, if he has been so enrolled, be released from the duties required of him by virtue of his enrolment.

2. Any person registered under this order who produces to the Common Council a certificate from a local authority that, before the said eighteenth day of January, he had undertaken to perform civil defence duties other than fire prevention duties for periods amounting in the aggregate to not less than forty-eight hours in each period of four weeks in the area of that authority, shall, so long as he continues to perform civil defence duties other than fire prevention duties for such periods in the area of that authority, be exempted from enrolment under this order, or, if he has been so enrolled, be released from the duties required of him by virtue of his enrolment.

3. Any person registered under this order who produces to the Common Council a certificate from a local authority that he is employed as head fire guard or senior fire guard in the service of that authority, shall, so long as he continues to be so employed, be exempted from enrolment under this order, or, if he has been so enrolled, be released from the duties required of him by virtue of his enrolment.

4. Any person registered under this order who—

- (a) has, in compliance with directions given under paragraph (1) of Regulation twenty-nine BA of the Defence (General) Regulations, 1939, entered the service of a local or harbour authority for employment in a capacity to which Regulation twenty-nine B of the said Regulations applies,
- (b) has, in pursuance of a requirement under sub-paragraph (d) of paragraph (1) of the said Regulation twenty-nine B, taken up part-time employment in any such capacity as aforesaid,

shall, so long as he continues to be so employed, be exempted from enrolment under this order, or, if he has been so enrolled, be released from the duties required of him by virtue of his enrolment.

5. Any person registered under this order who is a member of the civil defence reserve or who, having been called up under section two of the National Service Act, 1941, is serving with the civil defence reserve shall, so long as he continues to be such a member or so to serve, be exempted from enrolment under this order, or, if he has been so enrolled, be released from the duties required of him by virtue of his enrolment.

PART II

Persons working at business premises and government premises

1. Where, in the case of any person registered under this order who works at any premises in the City, being premises to which the Fire Prevention (Business Premises) (No. 2) Order, 1941, applies or government premises, there is produced to the Common Council a certificate stating that he performs on those premises outside his working hours duties undertaken to forestall or mitigate hostile attack for periods amounting in the aggregate to not less than forty-eight hours in each period of four weeks, he shall, so long as the certificate is in force and he continues to perform those duties for those periods, be exempted from enrolment under this order, or, if he has been so enrolled, be released from the duties required of him by virtue of his enrolment.

2. Where, in the case of any person registered under this order who works at premises to which the Fire Prevention (Business Premises) (No. 2) Order, 1941, applies or government premises, there is produced to the Common Council a certificate stating that the premises where he works are industrial premises used for vital work and that he is employed at those premises upon such work for exceptionally long hours, and that he ought to be exempted from enrolment under this order, or if he has been so enrolled, released from the duties required of him by virtue of his enrolment, he shall, so long as the certificate is in force and he continues to be so employed, be exempted from such enrolment or released from the said duties, as the case may be.

3. Where, in the case of any person registered under this order who works at premises to which the Fire Prevention (Business Premises) (No. 2) Order, 1941,

applies or government premises, there is produced to the Common Council a certificate that he is employed on night work, then, so long as the certificate is in force and he continues to be so employed, the following provisions shall have effect :—

- (a) if the certificate specifies that he is ordinarily employed for every week in night work, or is ordinarily employed in night work on not less than twenty nights in twenty-eight—
 - (i) he shall not be required to perform duties by virtue of his enrolment except on not more than one night in any week, being a night on which he is employed in night work, for a period beginning not earlier than five p.m., and ending when his work begins for the night or for a period beginning after his work has finished for the night and ending not later than eight a.m. on the following day ; and
 - (ii) the periods for which he is required to perform duties as aforesaid shall not in the aggregate exceed twelve hours in each period of four weeks ;
- (b) if the certificate specifies that he is employed in night work on a weekly shift system for three weeks in four, or for two weeks in three, or for three weeks in five, or is ordinarily employed in night work on not less than fifteen and not more than nineteen nights in twenty-eight, the maximum of forty-eight hours in a period of four weeks for which he may be required to perform duties by virtue of his enrolment shall be reduced by thirty-six hours ;
- (c) if the certificate specifies that he is employed in night work on a weekly shift system for one week in two, or for two weeks in five, or for one week in three, or is ordinarily employed in night work on not less than eight and not more than fourteen nights in twenty-eight, the said maximum shall be reduced by twenty-four hours ;
- (d) if the certificate specifies that he is employed in night work on a weekly shift system for one week in four, or is ordinarily employed in night work on not less than five and not more than seven nights in twenty-eight, the said maximum shall be reduced by twelve hours.

For the purposes of this paragraph—

- (i) a person shall be deemed to be employed in night work on any night if he performs not less than four hours of work, exclusive of any interval for a meal or a rest, between the hours of ten p.m. and six a.m. on that night ;
- (ii) a person shall not be deemed to be employed in night work for any week unless he is so employed on at least five nights in that week ;
- (iii) the expression “ week ” means the period between midnight on Sunday night and midnight on the succeeding Sunday night, except that, in a case where the system of work is based upon a seven-day period beginning and ending at times differing from those aforesaid, it means that period.

Formal Provisions as to Certificates

4. Any certificate issued under this Part of this Schedule may be issued either in respect of a single individual or, with the consent of the Common Council, in respect of several persons who are registered under this order and who are employed for the purposes of the same business, trade or profession, or the same government department.

5. Any such certificate shall—

- (a) if it is issued during the first four weeks of any period of twelve, expire at the end of that period of twelve weeks ;
- (b) if it is issued during the last eight weeks of any period of twelve, expire at the end of the next period of twelve weeks :

Provided that a certificate issued in respect of a single individual may from time to time be endorsed so as to cover a further period of twelve weeks, and any such endorsement shall, so far as practicable, be made not less than four weeks and not more than eight weeks before the date on which the certificate would otherwise

expire, and in the case of a certificate issued under paragraph 3, the particulars specified in the endorsement shall for the purposes of that paragraph be deemed to be substituted for the particulars specified in the certificate.

6. Any such certificate, and any endorsement of any such certificate, shall be in the prescribed form and—

- (a) in the case of a person who works at premises to which the Fire Prevention (Business Premises) (No. 2) Order, 1941, applies, shall be signed by a person authorised by the appropriate authority for the premises, or by a person of a class so authorised ;
- (b) in the case of a person who works at government premises shall be signed by a person authorised by or on behalf of the appropriate department for the premises, or by a person of a class so authorised ;

and, if the certificate is in respect of several persons, the person by whom the certificate or endorsement is signed shall send it to the local authority concerned :

Provided that a certificate for the purposes of paragraph 3 of this Part of this Schedule shall, where the premises are premises to which the Fire Prevention (Business Premises) (No. 2) Order, 1941, applies, be signed by the occupier of the premises or by a person authorised by him with the approval of the appropriate authority for the premises or by a person of a class so authorised.

PART III

Persons employed in certain services

1. Any person registered under this order who produces to the Common Council a certificate from a Fire Force Commander or an officer designated by the Secretary of State that, at the date when the certificate was issued, he was performing duties as a fireman of the National Fire Service for periods amounting in the aggregate to not less than forty-eight hours in each period of four weeks shall, so long as he continues to perform duties as such a fireman for such periods, be exempted from enrolment under this order or, if he has been so enrolled, be released from the duties required of him by virtue of his enrolment.

In this paragraph the expression " fireman " means a member of the National Fire Service holding a rank therein.

2. Any person registered under this order who produces to the Common Council a certificate signed by or on behalf of the Minister of Health stating that he is enrolled by a government department or local authority, or any body or person having the management of a hospital for the purpose of giving assistance without remuneration in connection with the admission or transference of patients in pursuance of arrangements made by the Minister of Health under paragraph (a) of subsection (1) of section fifty of the Civil Defence Act, 1939, and that at the date of the certificate he was in attendance for giving such assistance for periods amounting in the aggregate to not less than forty-eight hours in each period of four weeks shall, so long as he continues to be in attendance for such periods, be exempted from enrolment under this order, or, if he has been so enrolled, be released from the duties required of him by virtue of his enrolment.

In this paragraph the expression " local authority " has the meaning assigned to it by Regulation one hundred of the Defence (General) Regulations, 1939.

3. Any person registered under this order who is ordinarily engaged whole time in nursing the sick shall, so long as he is so engaged, be exempted from enrolment under this order or, if he has been so enrolled, shall be released from the duties required of him by virtue of his enrolment.

4. Where any person registered under this order who is employed at any premises forming part of a public utility undertaking or petroleum installation, being premises to which the Fire Prevention (Business Premises) (No. 2) Order, 1941, applies or government premises, produces to the Common Council a certificate signed by a person, or by a person of a class, authorised by or on behalf of the appropriate authority or, as the case may be, the appropriate department for the premises, stating that at the date of the certificate he is so employed in an essential capacity and is required to stand by elsewhere than where he lives for periods when he is not actually at work amounting in the aggregate to not less than forty-eight

hours in each period of four weeks, he shall, so long as he continues to stand by for such periods, be exempted from enrolment under this order or, if he has been so enrolled, be released from the duties required of him by virtue of his enrolment.

5. The Minister may by directions make provision for the exemption from enrolment or the release from duties required by virtue of enrolment, in the case of such persons, and subject to such conditions, as may be specified in the directions. [333]

ORDER IN COUNCIL AMENDING THE DEFENCE (PALACE OF WESTMINSTER FIRE PREVENTION) REGULATIONS, 1941

S. R. & O., 1942, No. 1279

July 1, 1942

1.—(1) . . .

(2) . . .

(3) In . . . Regulation three of the Defence (Palace of Westminster Fire Prevention) Regulations, 1941, for the words "the Minister of Works and Buildings", wherever they occur, there shall be substituted the words "the Minister of Works and Planning". [334]

* * * * *

THE FIRE PREVENTION (HISTORIC BUILDINGS) ORDER, 1942

S. R. & O., 1942, No. 1352

July 8, 1942

In pursuance of the powers conferred upon me by Regulations twenty-six A, twenty-seven A and thirty-eight of the Defence (General) Regulations, 1939, I hereby order as follows:—

1.—(1) The Minister of Home Security may give directions extending the Fire Prevention (Business Premises) (No. 2) Order, 1941, as amended by any subsequent order whether made before or after this order (which order as so amended is hereafter in this order referred to as "the principal order"), to such buildings or classes of buildings as may be specified in the directions, being buildings the preservation of which or of the contents of which appears to him to be in the public interest by reason of their historic or national character or otherwise, subject to the modification that such authority, body or person as may be specified in the directions shall be deemed to be the occupier, and to such other modifications, adaptations and exceptions as may be specified in the directions.

The powers of the Minister of Home Security under this paragraph shall, as respects buildings in Scotland, be exercised by the Secretary of State.

(2) Where the principal order has been extended by any such directions, references in any order made under Regulation twenty-six A or Regulation twenty-seven A of the Defence (General) Regulations, 1939 (other than this order, the principal order or the Civil Defence Duties (Compulsory Enrolment) (City of London) Order, 1941, to the principal order, or to business premises or to premises to which the principal order applies, or to the carrying on of a business in any such premises, or to the occupier of any such premises, shall be respectively construed as references to the principal order as extended by any such directions, the buildings to which it is so extended, the carrying

on of the purposes for which those buildings are used, and the authority, body or person specified in such directions as the occupier. [335]

2. Where the principal order has been extended by any such directions to any building, then—

- (a) any person who works at any premises (other than the said building) to which the principal order or the Fire Prevention (Government Premises) Order, 1942, applies, and who, with the consent of the occupier of, or, as the case may be, the appropriate department for, those premises, performs fire prevention duties outside his working hours under arrangements in force for that building under the principal order as so extended, shall, so long as he continues to perform those duties, or until the said consent is withdrawn, be exempted from the performance of fire prevention duties outside his working hours under arrangements in force for those premises under the principal order, or, as the case may be, the said Fire Prevention (Government Premises) Order, 1942;
- (b) any person registered under the Civil Defence Duties (Compulsory Enrolment) (City of London) Order, 1941, who performs fire prevention duties outside his working hours under arrangements in force for that building under the principal order as so extended, shall, so long as he continues to perform those duties, be exempted from enrolment under the Civil Defence Duties (Compulsory Enrolment) (City of London) Order, 1941, or, if he has been so enrolled, be released from the duties required of him by virtue of his enrolment. [336]

3. This Order may be cited as the Fire Prevention (Historic Buildings) Order, 1942. [337]

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THE CLEARANCE OF LOFTS ORDER, 1942

S. R. & O., 1942, No. 1558

July 30, 1942

In pursuance of the powers conferred upon me by paragraph (2) of Regulation 27 and by Regulation 38 of the Defence (General) Regulations, 1939, I hereby order as follows :—

1. Where there is, in any premises to which this Order applies, any loft which is not used or furnished for use for human habitation, the loft shall be cleared and kept clear of all articles, excluding fire fighting apparatus, which are not affixed to the premises. [338]

2.—(1) This Order applies to all premises being dwelling houses—

- (a) in the County of London;
- (b) In boroughs and urban districts in England and Wales;
- (c) In any area prescribed by directions given by a Regional Commissioner in accordance with paragraph (2) of this Article;
- (d) In Scotland.

(2) Where a Regional Commissioner is satisfied that by reason of the density of buildings in any area in England or Wales not being an area comprised in the County of London or in any borough or urban district, it is expedient that this Order should apply to all premises being dwelling houses therein, he may give a direction prescribing such area. [339]

3.—(1) The following councils may authorise any of their officers or servants to exercise the powers conferred by paragraph (5) of the said Regulation 27 :—

- (a) in the County of London, the London County Council ;
- (b) elsewhere in England and Wales, the Council of a borough or urban district, or, in any area which has been prescribed by directions given by a Regional Commissioner in accordance with Article 2 (2) hereof, the council of a rural district ;
- (c) in Scotland, any county or town council.

(2) Any officer of the National Fire Service of a rank not lower than that of Divisional Officer may authorise any member of the National Fire Service to exercise the powers conferred by the said paragraph (5). [340]

4. In this Order :—

the expression “ dwelling house ” means a building constructed or adapted to be used wholly or mainly for human habitation and includes a hospital ; and

the expression “ loft ” includes an attic and any space between a ceiling and a roof. [341]

5.—(1) The Clearance of Lofts Order, 1940, is hereby revoked.

(2) This Order may be cited as the Clearance of Lofts Order, 1942. [342]

* * * * *

THE FIRE PRECAUTIONS (CANADIAN FIRE FIGHTERS) ORDER, 1942

S. R. & O., 1942, No. 1632

August 8, 1942

In pursuance of the power conferred on me by Regulation 28A of the Defence (General) Regulations, 1939, I hereby order as follows :—

1. The same powers of entry and of taking steps for extinguishing fires or for protecting property, or rescuing persons or property, from fire as are, in relation to Great Britain, expressed to be conferred on members of the National Fire Service by subsection (1) of section fourteen of the Fire Brigades Act, 1938, as applied under the Fire Services (Emergency Provisions) Act, 1941, are hereby conferred on members of the Corps of (Civilian) Canadian Fire Fighters for Service in the United Kingdom. [343]

2. Subsection (7) of section two and subsection (3) of section fourteen of the Fire Brigades Act, 1938, as so applied (which confer powers in relation to water for extinguishing fires), are hereby extended to the Corps of (Civilian) Canadian Fire Fighters for Service in the United Kingdom. [344]

3. This Order may be cited as the Fire Precautions (Canadian Fire Fighters) Order, 1942. [345]

* * * * *

THE CIVIL DEFENCE DUTIES (COMPULSORY ENROLMENT) ORDER, 1942

S. R. & O., 1942, No. 1654

August 15, 1942

In pursuance of the powers conferred upon me by Regulations twenty-six A and thirty-eight of the Defence (General) Regulations, 1939, I hereby order as follows :—

1. If the Minister is satisfied, on the report of a local authority or otherwise, that the number of persons voluntarily enrolled for the performance of fire prevention duties in the area of a local authority is insufficient to enable that authority to discharge the duties imposed on them by Regulation twenty-seven B of the Defence (General) Regulations, 1939, the Minister may direct that this order shall apply to the area of that authority. [346]

2.—(1) The local authority for any area to which this order applies shall from time to time, by a notice published in the prescribed manner, require all persons, being British subjects who at the date of the notice are resident in the area or in such part thereof as may be prescribed and are of the age prescribed for their sex and are not exempted as hereinafter provided, to make, at such place and time, in such manner and to such authority or person as may be specified in the notice, an application to be registered under this order and to furnish such particulars about themselves as may be so specified :

Provided that, except so far as may be otherwise directed by the Minister, the local authority shall not, by any such notice as aforesaid, require any person who is already registered by that authority under this order to apply or furnish particulars as aforesaid.

(2) A notice published under this Article is hereafter in this order referred to as “ a registration notice ”.

(3) Where any person is convicted of failing to comply with this Article, he shall forthwith furnish to the local authority the particulars which he was required to furnish by the registration notice and the local authority shall thereupon register him under this order :

Provided that this paragraph shall not apply to any person if at the date of the conviction he has become a person of any of the classes referred to in the First Schedule to this order. [347]

3.—(1) A local authority may serve on any person registered by them under this order a notice stating that he has been enrolled for the performance of fire prevention duties in the area of the authority or the part thereof prescribed as aforesaid, and thereupon he shall be deemed to have been so enrolled.

(2) A notice served under this Article is hereafter in this order referred to as “ an enrolment notice ”.

(3) Every enrolment notice shall specify the person or persons, or describe the class of persons, by whom there may be given to the person deemed to be enrolled by virtue of the notice, directions defining the fire prevention duties to be performed by him, and the time, place and manner of their performance, and the person or persons so specified or of the class so described may give directions accordingly :

Provided that—

(a) the person or persons or class of persons authorised to give such directions may be varied from time to time by a further notice served by the local authority ;

- (b) the periods for which a person enrolled by virtue of any such notice is required by any such directions to perform duties shall not in the aggregate exceed forty-eight hours in each period of four weeks ;
- (c) any woman enrolled by virtue of any such notice shall not be required by any such directions to perform duties at any premises for which arrangements are in force under the Fire Prevention (Business Premises) (No. 2) Order, 1941, or the Fire Prevention (Government Premises) Order, 1942. [348]

4.—(1) Any person who would, apart from this provision, be required to apply for registration by a registration notice shall be exempted from that requirement if, at the date of the notice, he is a person of any of the classes referred to in the First Schedule to this order ; and any person registered under this order who becomes a person of any of the said classes shall be exempted from enrolment under this order or, if he has been so enrolled, shall be released by the local authority from the duties required of him by virtue of his enrolment.

(2) The provisions of the Second Schedule to this order shall have effect with respect to the persons referred to therein, and accordingly those persons shall, subject to and in accordance with the provisions of the said Schedule, be exempted from enrolment under this order, released from the duties required of them by virtue of such enrolment, or entitled to a reduction of their liability to perform those duties, as the case may be.

(3) Any person registered by a local authority under this order may, in accordance with the Civil Defence Duties (Exemption Tribunals) Order, 1941, apply to the tribunal mentioned in that order to be exempted from enrolment under this order, or, if he has been so enrolled, for release from the duties required of him by virtue of his enrolment, on the ground that he is medically unfit to perform those duties, and the tribunal may grant such application in accordance with the said order, and any person whose application has been granted under this paragraph, or who has been exempted by the tribunal mentioned in the Defence (Palace of Westminster Fire Prevention) Regulations, 1941, or in the Civil Defence Duties (Exemption Tribunals) Order, 1941, from enrolment for, or released or exempted by that tribunal from, the fire prevention duties which he would otherwise be required to perform under the said Regulations, the Fire Prevention (Business Premises) (No. 2) Order, 1941, the Fire Prevention (Government Premises) Order, 1942, or the Civil Defence Duties (Compulsory Enrolment) (City of London) Order, 1941, as the case may be, on the ground of medical unfitness, shall, so long as the order of the tribunal has effect, be exempted from enrolment under this order or, if he has been so enrolled, be released from the duties required of him by virtue of his enrolment.

(4) Any person registered by a local authority under this order may, in accordance with the Civil Defence Duties (Exemption Tribunals) Order, 1941, apply to the tribunal mentioned in that order to be exempted from enrolment under this order, or, if he has been so enrolled, for release from the duties required of him by virtue of his enrolment or for a reduction in the aggregate periods for which he may be required to perform such duties, on the ground that it would be an exceptional hardship if he were required to perform such duties or (in the case of an application for a reduction) to perform them for those periods, and the tribunal may grant such application in accordance with the said order, and any such person whose application has been granted under this paragraph shall, so long as the order of the tribunal has effect, be exempted from such enrolment, released from the said duties, or, as the case

may be, required to perform those duties for such reduced aggregate periods as may be specified in the order of the tribunal.

(5) Any woman registered by a local authority under this order shall be exempted from enrolment under this order or, if she has already been enrolled, shall be released by the local authority from the duties required of her by virtue of her enrolment, during any period throughout which a child (whether her own or not) under the age of fourteen is in her care and is living and sleeping where she lives and sleeps, and any woman so registered who produces to the local authority a certificate signed by a duly qualified medical practitioner certifying that she is pregnant shall, during the period of pregnancy and for six weeks thereafter, be exempted from enrolment or released from duties as aforesaid.

(6) Where it appears to any government department that any person ought, owing to the nature or length of hours of his work or any circumstances affecting the public interest, to be exempted from enrolment under this order, they may grant to him a certificate of exemption, and any person registered by a local authority under this order who holds such a certificate or a certificate of exemption granted by any government department in the exercise of powers conferred by paragraph (h) of the proviso to paragraph (1) of Article 4 of the Fire Prevention (Business Premises) (No. 2) Order, 1941, or paragraph (m) of the proviso to paragraph (1) of Article 4 of the Fire Prevention (Government Premises) Order, 1942, or paragraph (6A) of Article 3 of the Civil Defence Duties (Compulsory Enrolment) (City of London) Order, 1941, shall be exempted from enrolment under this order, or, if he has been so enrolled, be released from the duties required of him by virtue of his enrolment.

(7) Where any person registered by a local authority under this order has, before he is served by that authority with an enrolment notice, been served with an enrolment notice by another local authority, he shall be exempted from enrolment by the first mentioned authority, if and so long as he is required to perform duties by virtue of the enrolment notice served by that other authority.

(8) Where—

- (a) any person who is required by a local authority to apply for registration by a registration notice ceases, before the date on which he is required to make the application, to reside in the area of that authority or the part thereof prescribed as aforesaid; or
- (b) any person enrolled by a local authority by an enrolment notice has ceased to reside in the area of that authority or the part thereof prescribed as aforesaid when the notice is served, or ceases at any time thereafter so to reside,

the authority shall, if he shows reasonable grounds for leaving that area or part, and that it would not be practicable for him to perform the required duties in that area or part, exempt him from liability to apply for registration under this order, or release him from the duties required of him by virtue of his enrolment, as the case may be; and if the local authority refuses to grant such an exemption or release an appeal from that refusal shall lie, in accordance with the Civil Defence Duties (Exemption Tribunals) Order, 1941, to the tribunal mentioned in that order. [349]

5.—(1) Every person who is required to perform fire prevention duties by virtue of enrolment under this order shall comply with any directions given to him by a person authorised by the local authority by whom he was enrolled, or a person of a class so authorised, to attend at a specified time and place for the purpose of receiving instruction and training as hereinafter provided, and

shall also comply with any directions given to him in the course of the instruction and training by the person in charge thereof.

(2) The said instruction and training may comprise all or any of the following matters :—

- (a) the characteristics of different types of incendiary bombs and other missiles likely to cause fire and the methods of dealing therewith ;
- (b) the use of fire-fighting equipment and appliances, whether by individuals or by parties or by groups of parties, and the maintenance of such equipment and appliances ;
- (c) the situation of any fire-fighting equipment and appliances and supplies of static water available for use at the premises to be guarded, and the situation and use of any hydrants, taps, switches and other appliances for controlling any supply of water, gas or electricity available for use at those premises ;
- (d) the methods of giving warning and communicating information, and the situation at the said premises of any telephone or other instrument used for the purpose of giving warning and communicating information ;
- (e) the lay-out of the said premises and in particular the roofs, and the methods of obtaining access to the roofs and other parts of the said premises.

(3) For the purpose of calculating the aggregate periods for which any such person as aforesaid is required to perform fire prevention duties in any period of four weeks, any period for which he is required under this Article to attend for instruction and training shall be included. [350]

6. The Minister may, to such extent and subject to such restrictions as he thinks proper, delegate to a Regional Commissioner any functions exercisable by him under this order. [351]

7.—(1) In this order, except so far as the contrary is expressly provided, the following expressions have the meanings hereby respectively assigned to them, that is to say :—

“ civil defence duties ” has the same meaning as in Regulation twenty-six A of the Defence (General) Regulations, 1939 ;

“ fire prevention duties ” has the same meaning as in Regulation twenty-seven A of the said Regulations ;

“ the Minister ” means, as respects England, the Minister of Home Security, and as respects Scotland, the Minister of Home Security or the Secretary of State ;

“ local authority ” means, as respects England, the council of a county borough, county district or metropolitan borough, or the Common Council of the City of London, and, as respects Scotland, a county council or town council ;

“ period of four weeks ” means the period of four weeks beginning with the twenty-second day of September, nineteen hundred and forty-one, and any period of four weeks beginning with the date exactly four weeks or an exact multiple of four weeks after the first mentioned date ;

“ period of twelve weeks ” means the period of twelve weeks beginning with the twenty-second day of September, nineteen hundred and forty-one, and any period of twelve weeks beginning with the date exactly twelve weeks or an exact multiple of twelve weeks after the first mentioned date ;

“ prescribed ” means prescribed by directions given by the Minister ;

“ working hours ”, in relation to any person who has undertaken, or is required, to perform fire prevention duties under arrangements in force for any premises under the Fire Prevention (Business Premises)

(No. 2) Order, 1941, or the Fire Prevention (Government Premises) Order, 1942, means any period during which that person is engaged in, or employed for the purposes of, any business, trade or profession carried on at those premises or any of them or, in the case of premises to which the Fire Prevention (Government Premises) Order, 1942, applies, is employed for the purposes for which those premises are used.

(2) For the purposes of this order a person employed for the purposes of any business, trade or profession or for the purposes of a government department, being a person whose work is not performed at premises occupied for those purposes shall—

- (a) if his employment normally requires him to attend at any such premises at the beginning or end of his daily period of work, be deemed to work at those premises ;
- (b) if his employment does not require him to attend as aforesaid but requires him to report regularly to any such premises at least once a week, be deemed to work at those premises.

(3) Any reference in this order to all or any of the provisions of any other order shall be construed as a reference to those provisions as amended by any subsequent order or, if those provisions are revoked and re-enacted with or without modification, to the provisions so re-enacted. [352]

8.—(1) The Civil Defence Duties (Compulsory Enrolment) Order, 1941, the Civil Defence Duties (Compulsory Enrolment) (No. 2) Order, 1941, and the Civil Defence Duties (Compulsory Enrolment) (No. 3) Order, 1941, are hereby revoked.

(2) Any direction, notice, registration, exemption, release, certificate, application or thing, given, published, served, effected, granted, issued, made or done in the exercise of powers conferred by any provision of the orders revoked by this order shall, for the purposes of this order, be deemed to have been given, published, served, effected, granted, issued, made or done in the exercise of powers conferred by the corresponding provision of this order, and any reference in any order made under Regulations twenty-six A, twenty-seven A and thirty-eight of the Defence (General) Regulations, 1939, to any order revoked by this order or to any provision of any such order shall be construed as including a reference to this order or to the corresponding provision of this order. [353]

9. This Order may be cited as the Civil Defence Duties (Compulsory Enrolment) Order, 1942, and shall come into force on the thirty-first day of August, nineteen hundred and forty-two. [354]

* * * * *

FIRST SCHEDULE

PERSONS EXEMPTED FROM REGISTRATION

1. Any member of any of the armed forces of the Crown (including a member of the Women's Royal Naval Service, the Auxiliary Territorial Service, the Women's Auxiliary Air Force, the Home Guard or the Auxiliary Coastguard but not including a member of any reserve or auxiliary force or service who has not been called out for service or has been released from service).

2. Any member of the Royal Observer Corps.

3. Any constable.

4. Any pilot holding a licence issued under the Pilotage Act, 1913, or a deep sea certificate granted by a pilotage authority authorised by a Pilotage Order to grant such certificates.

5. Any duly qualified medical practitioner.

6. Any master or any member of the crew of a ship engaged in sea-going service.

7. Any person who—

- (a) is the subject of an order or inquisition under the Lunacy and Mental Treatment Acts, 1890 to 1930 ; or
- (b) is being detained in pursuance of section twenty-five of the Lunacy Act, 1890, or as a criminal lunatic, or in pursuance of an order made under the Criminal Lunatics Act, 1884 ; or
- (c) is undergoing treatment as a temporary patient under section five of the Mental Treatment Act, 1930 ; or
- (d) is a person placed in an institution or a certified house or under guardianship, under section three of the Mental Deficiency Act, 1913, or is the subject of an order under section six, eight or nine of that Act, or is under supervision provided under paragraph (b) of section thirty of that Act, or is an inmate of a home approved under section fifty of that Act, or is the subject of a notification under subsection (2) of section fifty-one of that Act ; or
- (e) is the subject of an order or warrant for his detention or custody under the Lunacy (Scotland) Acts, 1857 to 1919, or is being entertained and kept in an asylum in pursuance of section fifteen of the Lunacy (Scotland) Act, 1866, as read with section fifty-nine of the Mental Deficiency and Lunacy (Scotland) Act, 1913, or is a person for whose safe custody during His Majesty's pleasure His Majesty is authorised to give order or is a person whom the Secretary of State or the Prisons Department for Scotland has, in pursuance of any Act, directed to be removed to a criminal lunatic asylum or to the criminal lunatic department of Perth prison or to an asylum, or is a person placed in an institution or certified house or under guardianship under section four of the Mental Deficiency and Lunacy (Scotland) Act, 1913, or is the subject of an order under section seven, nine or ten of that Act.

8. Any person certified by a local authority, as defined by the Blind Persons Acts, 1920 and 1938, to be registered as a blind person under arrangements made by the authority under those Acts.

9. Any deaf and dumb person.

10. Any person of any such class as may be prescribed. [355]

SECOND SCHEDULE

PERSONS EXEMPTED FROM ENROLMENT, RELEASED FROM DUTIES, OR LIABLE FOR REDUCED DUTIES

PART I

Persons performing civil defence duties other than fire prevention

1. Any person registered by a local authority under this order who has undertaken, at the date of the registration notice in pursuance of which he was first registered by that authority, to perform civil defence duties other than fire prevention duties in the area of that authority for periods amounting in the aggregate to not less than forty-eight hours in each period of four weeks, shall, so long as he continues to perform such duties for such periods, be exempted from enrolment under this order, or, if he has been so enrolled, be released from the duties required of him by virtue of his enrolment.

2. Any person registered by a local authority under this order who produces to that authority a certificate from another local authority or from a county council that, at the date of the registration notice in pursuance of which he was first registered by the first mentioned authority, he had undertaken to perform civil defence duties other than fire prevention duties for periods amounting in the aggregate to not less than forty-eight hours in each period of four weeks in the area of that other authority or county council, shall, so long as he continues to perform civil defence duties other than fire prevention duties for such periods in the area of that other authority or county council, be exempted from enrolment by the first mentioned authority, or, if he has been so enrolled, be released by the first mentioned authority from the duties required of him by virtue of his enrolment.

3. Any person registered by a local authority under this order who—

- (a) has, in compliance with directions given under paragraph (1) of Regulation twenty-nine BA of the Defence (General) Regulations, 1939, entered the service of a local or harbour authority for employment in a capacity to which Regulation twenty-nine B of the said Regulations applies ;
- (b) has, in pursuance of a requirement under sub-paragraph (d) of paragraph (1) of the said Regulation twenty-nine B, taken up part-time employment in any such capacity as aforesaid ;

shall, so long as he continues to be so employed, be exempted from enrolment under this order, or, if he has been so enrolled, be released from the duties required of him by virtue of his enrolment.

4. Any person registered by a local authority under this order who is a member of the civil defence reserve or who, having been called up under section two of the National Service Act, 1941, is serving with the civil defence reserve shall, so long as he continues to be such a member or so to serve, be exempted from enrolment under this order, or, if he has been so enrolled, be released from the duties required of him by virtue of his enrolment.

PART II

Persons working in business premises and government premises

1. Where, in the case of any male person registered by a local authority under this order, there is produced to that authority a certificate that he has undertaken, or is required, to perform outside his working hours, at premises to which the Fire Prevention (Business Premises) (No. 2) Order, 1941, or the Fire Prevention (Government Premises) Order, 1942, applies, fire prevention duties under arrangements in force for those premises under that order for periods amounting in the aggregate to such number of hours in a period of four weeks as may be specified in the certificate, then, so long as the certificate is in force and he continues to perform those duties outside his working hours, the following provisions shall have effect :—

- (a) if the number of hours so specified exceeds thirty, he shall be exempted from enrolment under this order, or, if he has been so enrolled, he shall be released by the authority from the duties required of him by virtue of his enrolment ;
- (b) if the number of hours so specified exceeds eighteen but does not exceed thirty, the periods for which he is required to perform duties by virtue of his enrolment shall not in the aggregate exceed twelve hours in each period of four weeks ;
- (c) if the number of hours so specified exceeds six but does not exceed eighteen, the periods for which he is required to perform duties by virtue of his enrolment shall not in the aggregate exceed twenty-four hours in each period of four weeks ;
- (d) if the number of hours so specified does not exceed six, the periods for which he is required to perform duties by virtue of his enrolment shall not in the aggregate exceed thirty-six hours in each period of four weeks.

2. The number of hours to be specified in any such certificate or in any endorsement thereof made under paragraph 9 of this Part of this Schedule shall be ascertained as follows :—

- (a) the person by whom the certificate or endorsement is signed shall calculate the total number of hours in the period of four weeks beginning with the fourteenth day of December, 1942, during which all or any of the fire prevention duties required to be performed under the arrangements in force for the premises under the Fire Prevention (Business Premises) (No. 2) Order, 1941, or, as the case may be, the Fire Prevention (Government Premises) Order, 1942, were or will be performed outside their working hours by male persons who work at the premises ;
- (b) he shall also calculate the maximum number of male persons who at any one time during the said period performed or will perform outside their working hours fire prevention duties under the said arrangements ;
- (c) he shall then multiply the said numbers and shall divide their product by the number of male persons who, at the date when the certificate is

- issued or endorsed have undertaken, or are required, to perform outside their working hours fire prevention duties under the said arrangements ;
- (d) if the final number of hours so calculated includes a fraction of an hour, that fraction shall be counted as a complete hour :

Provided that—

- (i) where arrangements came into force under the said order for the premises for the first time after the fourteenth day of December, 1942, or a change occurs after that day in the arrangements in force for the premises or in any other material circumstances, the person by whom any subsequent certificate or endorsement is signed shall, instead of calculating the actual numbers referred to in sub-paragraphs (a) and (b) hereof, calculate what those numbers would have been if the arrangements had come into force or, as the case may be, the change had occurred before the said day ;
- (ii) where a certificate relating to any person has been issued or endorsed so as to expire at a certain time, the number of hours specified in that certificate or endorsement may, without any fresh calculation, be inserted in any subsequent certificate or endorsement thereof which relates to a person performing fire prevention duties under the same arrangements and which will expire at the same time.

3. Where, in the case of a woman registered by a local authority under this order, there is produced to that authority a certificate that she has undertaken, or is required, to perform outside her working hours, at premises to which the Fire Prevention (Business Premises) (No. 2) Order, 1941, or the Fire Prevention (Government Premises) Order, 1942, applies, fire prevention duties under arrangements in force for those premises under that order, then, so long as the certificate is in force and she continues to perform those duties outside her working hours, she shall be exempted from enrolment under this order, or, if she has been so enrolled, shall be released from the duties required of her by virtue of her enrolment.

4. Where, in the case of any person registered by a local authority under this order who works at premises to which the Fire Prevention (Business Premises) (No. 2) Order, 1941, or the Fire Prevention (Government Premises) Order, 1942, applies, there is produced to that authority a certificate stating that he performs on those premises outside his working hours duties undertaken to forestall or mitigate hostile attack for periods amounting in the aggregate to not less than forty-eight hours in each period of four weeks, he shall, so long as the certificate is in force and he continues to perform those duties for those periods, be exempted from enrolment under this order, or, if he has been so enrolled, be released from the duties required of him by virtue of his enrolment.

5. Where, in the case of any male person registered by a local authority under this order who works at premises to which the Fire Prevention (Business Premises) (No. 2) Order, 1941, or the Fire Prevention (Government Premises) Order, 1942, applies, there is produced to that authority a certificate stating that the premises where he works are industrial premises used for vital work and that he is employed at those premises upon such work for exceptionally long hours, and that he ought to be exempted from enrolment under this order, or if he has been so enrolled, released from the duties required of him by virtue of his enrolment, he shall, so long as the certificate is in force and he continues to be so employed, be exempted from such enrolment or released from the said duties, as the case may be.

6. Where, in the case of any woman registered by a local authority under this order who works at premises to which the Fire Prevention (Business Premises) (No. 2) Order, 1941, or the Fire Prevention (Government Premises) Order, 1942, applies, there is produced to that authority a certificate stating that she is employed at those premises for exceptionally long hours and that she ought to be exempted from enrolment under this order or, if she has been so enrolled, released from the duties required of her by virtue of her enrolment, she shall, so long as the certificate is in force and she continues to be so employed, be exempted from such enrolment or released from the said duties, as the case may be.

7. Where, in the case of any person registered by a local authority under this order who works at premises to which the Fire Prevention (Business Premises)

(No. 2) Order, 1941, or the Fire Prevention (Government Premises) Order, 1942, applies, there is produced to that authority a certificate that he is employed on night work, then, so long as the certificate is in force and he continues to be so employed, the following provisions shall have effect :—

- (a) if the certificate specifies that he is ordinarily employed for every week in night work, or is ordinarily employed in night work on not less than twenty nights in twenty-eight, he shall be exempted from enrolment under this order, or, if he has been so enrolled, he shall be released from the duties required of him by virtue of his enrolment ;
- (b) if the certificate specifies that he is employed in night work on a weekly shift system for three weeks in four, or for two weeks in three, or for three weeks in five, or is ordinarily employed in night work on not less than fifteen and not more than nineteen nights in twenty-eight, the maximum of forty-eight hours in a period of four weeks for which he may be required to perform duties by virtue of his enrolment (less any deduction made under paragraph 1 of this Part of this Schedule) shall be reduced by thirty-six hours ;
- (c) if the certificate specifies that he is employed in night work on a weekly shift system for one week in two, or for two weeks in five, or for one week in three, or is ordinarily employed in night work on not less than eight and not more than fourteen nights in twenty-eight, the said maximum shall be reduced by twenty-four hours ;
- (d) if the certificate specifies that he is employed in night work on a weekly shift system for one week in four, or is ordinarily employed in night work on not less than five and not more than seven nights in twenty-eight, the said maximum shall be reduced by twelve hours.

For the purposes of this paragraph—

- (i) a person shall be deemed to be employed in night work on any night if he performs not less than four hours of work, exclusive of any interval for a meal or a rest, between the hours of 10 p.m. and 6 a.m. on that night ;
- (ii) a person shall not be deemed to be employed in night work for any week unless he is so employed on at least five nights in that week ;
- (iii) the expression “ week ” means the period between midnight on Sunday night and midnight on the succeeding Sunday night, except that, in a case where the system of work is based upon a seven-day period beginning and ending at time differing from those aforesaid, it means that period.

Formal Provisions as to Certificates

8. Any certificate issued under this Part of this Schedule may be issued either in respect of a single individual or, with the consent of the local authority concerned, in respect of several persons who are registered by that local authority under this order and who—

- (a) in the case of a certificate issued under paragraph 1 or paragraph 3, are persons to whom the same arrangements apply ;
- (b) in any other case, are employed for the purposes of the same business, trade or profession, or the same government department.

9. Any such certificate shall—

- (a) if it is issued during the first four weeks of any period of twelve, expire at the end of that period of twelve weeks ;
- (b) if it is issued during the last eight weeks of any period of twelve, expire at the end of the next period of twelve weeks :

Provided that a certificate issued in respect of a single individual may from time to time be endorsed so as to cover a further period of twelve weeks, and any such endorsement shall, so far as practicable, be made not less than four weeks and not more than eight weeks before the date on which the certificate would otherwise expire, and—

- (i) in the case of a certificate issued under paragraph 1, the number of hours specified in the endorsement shall for the purposes of that paragraph be deemed to be substituted for the number specified in the certificate.

- (ii) in the case of a certificate issued under paragraph 7, the particulars specified in the endorsement shall for the purposes of that paragraph be deemed to be substituted for the particulars specified in the certificate.
10. Any such certificate, and any endorsement of any such certificate, shall be in the prescribed form and—
- (a) in the case of a person who works at premises to which the Fire Prevention (Business Premises) (No. 2) Order, 1941, applies, shall be signed by the occupier of the premises, or by a person authorised by him with the approval of the appropriate authority for the premises under the said order, or by a person of a class so authorised;
- (b) in the case of a person who works at premises to which the Fire Prevention (Government Premises) Order, 1942, applies shall be signed by a person authorised by or on behalf of the appropriate department for the premises, or by a person of a class so authorised;

and, if the certificate is in respect of several persons, the person by whom the certificate or endorsement is signed shall send it to the local authority concerned:

Provided that a certificate for the purposes of paragraph 4, paragraph 5, or paragraph 6 of this Part of this Schedule shall, where the premises are premises to which the Fire Prevention (Business Premises) (No. 2) Order, 1941, applies, be signed by a person authorised by the appropriate authority for the premises under the said order or by a person of a class so authorised.

11. Where a certificate is to be issued in respect of the same person by the same occupier or department both under paragraph 1 and paragraph 7 of this Part of this Schedule, a joint certificate shall be issued in the prescribed form, and this Part of this Schedule shall apply thereto in like manner as it would apply if the two certificates were issued separately.

PART III

Persons employed in certain services

1. Any person registered by a local authority under this order who produces to that authority a certificate from a Fire Force Commander or an officer designated by the Secretary of State that, at the date when the certificate was issued, he was performing duties as a fireman of the National Fire Service for periods amounting in the aggregate to not less than forty-eight hours in each period of four weeks shall, so long as he continues to perform duties as such a fireman, for such periods, be exempted from enrolment under this order or, if he has been so enrolled, be released from the duties required of him by virtue of his enrolment.

In this paragraph, the expression "fireman" means a member of the National Fire Service (whether male or female) holding a rank therein.

2. Any person registered by a local authority under this order who produces to that authority a certificate signed by or on behalf of the Minister of Health or the Secretary of State for Scotland stating that he is enrolled by a government department or local authority, or any body or person having the management of a hospital for the purpose of giving assistance without remuneration in connection with the admission or transference of patients in pursuance of arrangements made by the Minister of Health or the Secretary of State for Scotland under paragraph (a) of subsection (1) of section fifty of the Civil Defence Act, 1939, and that at the date of the certificate he was in attendance for giving such assistance for periods amounting in the aggregate to not less than forty-eight hours in each period of four weeks shall, so long as he continues to be in attendance for such periods, be exempted from enrolment under this order, or, if he has been so enrolled, be released from the duties required of him by virtue of his enrolment.

In this paragraph the expression "local authority", in the second place where it occurs, has, as respects England the meaning assigned to it by Regulation one hundred of the Defence (General) Regulations, 1939, and, as respects Scotland, the meaning assigned to it by Regulation one hundred and one of those Regulations.

3. Where any person employed as a prison officer or officer, nurse or attendant in any institution as hereinafter defined who has been registered by a local authority under this order produces to that authority a certificate signed by a person, or by a person of a class, authorised by or on behalf of the government department, local

authority, body or person having the control or management of the prison or institution, as the case may be, stating that he is so employed and is required to stand by at premises forming part of the prison or institution for periods outside his hours on actual duty amounting in the aggregate to not less than forty-eight hours in each period of four weeks, he shall, so long as he continues to stand by for such periods, be exempted from enrolment under this order or, if he has been so enrolled, be released from the duties required of him by virtue of his enrolment.

In this paragraph the expression "institution" means, as respects England, the Broadmoor Criminal Lunatic Asylum, any institution within the meaning of the Mental Treatment Act, 1930, or any institution, certified house or approved home within the meaning of the Mental Deficiency Act, 1913, and, as respects Scotland, any criminal lunatic asylum or any institution or certified house within the meaning of the Mental Deficiency and Lunacy (Scotland) Act, 1913, or any asylum within the meaning of the Lunacy (Scotland) Act, 1857 to 1919.

4. Any person registered by a local authority under this order who is ordinarily engaged whole time in nursing the sick or is a midwife ordinarily engaged whole time in the practice of midwifery shall, so long as that person is so engaged, be exempted from enrolment under this order or, if he has been so enrolled, shall be released from the duties required of him by virtue of his enrolment.

In this paragraph the expression "midwife" means a woman certified under the Midwives Acts, 1902 to 1936, or the Midwives (Scotland) Acts, 1915 and 1927, a woman who is deemed to be a certified midwife by virtue of Regulation thirty-three of the Defence (General) Regulations, 1939, or a woman whose name is entered on the register of pupils maintained by the Central Midwives Board or the Central Midwives Board for Scotland.

5. Where any person registered by a local authority under this order who is employed at any premises forming part of a public utility undertaking or petroleum installation, being premises to which the Fire Prevention (Business Premises) (No. 2) Order, 1941, or the Fire Prevention (Government Premises) Order, 1942, applies, produces to that authority a certificate signed by a person, or by a person of a class, authorised by or on behalf of the appropriate authority or, as the case may be, the appropriate department for the premises, stating that at the date of the certificate he is so employed in an essential capacity and is required to stand by elsewhere than where he lives for periods when he is not actually at work amounting in the aggregate to not less than forty-eight hours in each period of four weeks, he shall, so long as he continues to stand by for such periods, be exempted from enrolment under this order or, if he has been so enrolled, be released from the duties required of him by virtue of his enrolment.

6. The Minister may by directions make provision for the exemption from enrolment or the release from duties required by virtue of enrolment, in the case of such persons, and subject to such conditions, as may be specified in the directions. [356]

THE NATIONAL FIRE SERVICE (ALTERATION OF FIRE AREAS) REGULATIONS, 1942

S. R. & O., 1942, No. 1871

September 12, 1942

In pursuance of the powers conferred upon me by the Fire Services (Emergency Provisions) Act, 1941, I hereby make the following Regulations:—

1.—(1) These Regulations may be cited as the National Fire Service (Alteration of Fire Areas) Regulations, 1942.

(2) The Interpretation Act, 1889, applies for the interpretation of these Regulations as it applies for the interpretation of an Act of Parliament.

(3) In these Regulations "the principal Regulations" means the National Fire Service (General) Regulations, 1941. [357]

2. As from the 20th September, 1942, there shall, in Region 7, be, in

Fire Area 39 and the areas to be included in the said Fire Areas 17, 18, 19 and 39 shall be as specified in the First Schedule to these Regulations ; and accordingly the principal Regulations shall have effect as if for so much of Part I of the First Schedule thereto as relates to Region 7 there were substituted the provisions contained in the First Schedule to these Regulations. [358]

3. As from the 20th September, 1942, there shall, in Region 9, be, in addition to the existing Fire Areas 23, 24 and 25, a Fire Area to be called Fire Area 40 and the areas to be included in the said Fire Areas 23, 24, 25 and 40 shall be as specified in the Second Schedule to these Regulations ; and accordingly the principal Regulations shall have effect as if for so much of Part I of the First Schedule thereto as relates to Region 9 there were substituted the provisions contained in the Second Schedule to these Regulations. [359]

4. As from the 20th September, 1942, there shall, in Region 10, be, in addition to the existing Fire Areas 26, 27, 28 and 29, Fire Areas to be called Fire Areas 41, 42 and 43 and the areas to be included in the said Fire Areas 26, 27, 28, 29, 41, 42 and 43 shall be as specified in the Third Schedule to these Regulations ; and accordingly the principal Regulations shall have effect as if for so much of Part I of the First Schedule thereto as relates to Region 10 there were substituted the provisions contained in the Third Schedule to these Regulations. [360]

5.—(1) The following transitional provisions shall have effect in relation to any borough or district which is transferred by these Regulations from one Fire Area to another.

(2) Any member of the Fire Force for the first Fire Area who, immediately before the transfer, was stationed in that borough or district, or, being then temporarily posted to a reserve or other station or suspended from duty or placed on reserve, was last stationed in that borough or district before he was so posted or suspended or placed on reserve, shall, on the said transfer taking effect, himself be transferred, by virtue of these Regulations and without more, to the Fire Force for the second Fire Area.

(3) Where any fireman so transferred had, before his transfer, committed an offence against discipline, any proceedings commenced before the transfer under Part II of the Second Schedule to the principal Regulations may be carried on as if these Regulations had not been made, except that anything which under proviso (iii) to sub-paragraph (1) and sub-paragraphs (2) and (3) of paragraph 7 of the said Part II falls to be done by, to or before the Fire Force Commander shall be done by, to or before the Fire Force Commander for the Fire Force for the second Fire Area.

The references in this paragraph to the Fire Force Commander include references to any person authorised or required under paragraph 1 of Part IV of the Second Schedule to the principal Regulations to act instead of the Fire Force Commander.

(4) Any notice served under the National Service Act, 1941, requiring a person to present himself on or after the 20th September, 1942, at any place in a transferred borough or district to the Fire Force Commander for the Fire Force for the first Fire Area shall have effect as if it had required him to present himself there to the Fire Force Commander for the second Fire Area. [361]

FIRST SCHEDULE

REGION 7

Fire Area 39

The county borough of Gloucester.

The county of Gloucester, excluding the part in Fire Area 17.

The county of Wilts.

Fire Area 17

The county boroughs of Bath, and Bristol.

The following districts in the county of Gloucester. *Urban Districts* : Kingswood, Mangotsfield. *Rural Districts* : Sodbury, Thornbury, Warmley.

The county of Somerset.

Fire Area 18

The county borough of Exeter.

The urban district of Bude-Stratton, and the rural district of Stratton, in the county of Cornwall.

The county of Devon, excluding the part in Fire Area 19.

Fire Area 19

The county borough of Plymouth.

The county of Cornwall, excluding the part in Fire Area 18, but including the Isles of Scilly.

The following districts in the county of Devon. *Borough* : Dartmouth. *Urban Districts* : Knightsbridge, Salcombe, Tavistock. *Rural Districts* : Kingsbridge, Plympton St. Mary, Tavistock. [362]

SECOND SCHEDULE

REGION 9

Fire Area 23

The county borough of Worcester.

The county of Hereford.

The urban district of Amblecote, in the county of Stafford.

The following districts in the county of Warwick. *Boroughs* : Royal Leamington Spa, Rugby, Stratford-upon-Avon, Warwick. *Urban Districts* : Kenilworth, Solihull. *Rural Districts* : Alcester, Rugby, Shipston-on-Stour, Southam, Stratford-upon-Avon, Warwick.

The county of Worcester, excluding the borough of Oldbury.

Fire Area 24

The county boroughs of Birmingham, and Coventry.

The following districts in the county of Warwick. *Boroughs* : Nuneaton, Sutton Coldfield. *Urban District* : Bedworth. *Rural Districts* : Atherstone, Meriden.

Fire Area 40

The county boroughs of Dudley, Smethwick, Walsall, West Bromwich, and Wolverhampton.

The following districts in the county of Stafford. *Boroughs* : Bilston, Rowley Regis, Tipton, Wednesbury. *Urban Districts* : Aldridge, Brierley Hill, Brownhills, Cannock, Coseley, Darlaston, Sedgely, Tettenhall, Wednesfield, Willenhall. *Rural Districts* : Cannock, Seisdon.

The borough of Oldbury, in the county of Worcester.

Fire Area 25

The county boroughs of Burton-upon-Trent, and Stoke-on-Trent.

The county of Salop.

The county of Stafford, excluding the parts in Fire Areas 23 and 40.

The rural district of Tamworth, in the county of Warwick. [363]

THIRD SCHEDULE

REGION 10

Fire Area 41

The county boroughs of St. Helens, and Warrington.

The following districts in the county of Chester. *Boroughs* : Congleton, Crewe. *Urban Districts* : Alsager, Middlewich, Nantwich, Northwich, Runcorn, Sandbach, Winsford. *Rural Districts* : Congleton, Nantwich, Northwich, Runcorn, Tarvin.

The following districts in the county of Lancaster. *Borough* : Widnes. *Urban Districts* : Haydock, Newton-le-Willows, Prescott, Rainford. *Rural Districts* : Warrington, Whiston.

Fire Area 26

The county boroughs of Birkenhead, Bootle, Chester, Liverpool, and Wallasey.

The following districts in the county of Chester. *Borough* : Bebington. *Urban Districts* : Ellesmere Port, Hoole, Hoylake, Neston, Wirral. *Rural District* : Chester.

The following districts in the county of Lancaster. *Borough* : Crosby. *Urban Districts* : Huyton-with-Roby, Litherland.

Fire Area 42

The county boroughs of Oldham, and Stockport.

The following districts in the county of Chester. *Boroughs* : Altrincham, Dukinfield, Hyde, Macclesfield, Sale, Stalybridge. *Urban Districts* : Alderley Edge, Bollington, Bowdon, Bredbury and Romiley, Hale, Hazel Grove and Bramhall, Knutsford, Longdendale, Lymm, Marple, Wilmslow. *Rural Districts* : Bucklow, Disley, Macclesfield, Tintwistle.

The following districts in the county of Lancaster. *Boroughs* : Ashton-under-Lyne, Mossley. *Urban Districts* : Audenshaw, Chadderton, Crompton, Denton, Droylsden, Failsworth, Lees, Royton. *Rural District* : Limehurst.

Fire Area 27

The county boroughs of Manchester, and Salford.

The urban district of Cheadle and Gatley, in the county of Chester.

The following districts in the county of Lancaster. *Boroughs* : Eccles, Prestwich, Stretford, Swinton and Pendlebury. *Urban Districts* : Irlam, Urmston, Whitefield.

Fire Area 28

The county boroughs of Bolton, Bury, Rochdale, and Wigan.

The following districts in the county of Lancaster. *Boroughs* : Farnworth, Heywood, Leigh, Middleton, Radcliffe. *Urban Districts* : Abram, Ashton-in-Makerfield, Aspull, Atherton, Billinge and Winstanley, Blackrod, Golborne, Hindley, Horwich, Ince-in-Makerfield, Kearsley, Littleborough, Little Lever, Milnrow, Orrell, Ramsbottom, Skelmersdale, Standish-with-Langtree, Tottington, Turton, Tyldesley, Upholland, Wardle, Westhoughton, Whitworth, Worsley. *Rural District* : Wigan.

Fire Area 29

The county boroughs of Blackburn, Blackpool, Burnley, Preston, and Southport.

The following districts in the county of Lancaster. *Boroughs* : Accrington, Bacup, Chorley, Clitheroe, Colne, Darwen, Fleetwood, Haslingden, Lancaster, Lytham St. Anne's, Morecambe and Heysham, Nelson, Rawtenstall. *Urban Districts* : Adlington, Barrowford, Brierfield, Carnforth, Church, Clayton-le-Moors, Formby, Fulwood, Great Harwood, Kirkham, Leyland, Longridge, Ormskirk, Oswaldtwistle, Padiham, Poulton-le-Fylde, Preesall, Rishton, Thornton, Cleveleys, Trawden, Walton-le-Dale, Withnell. *Rural Districts* : Blackburn, Burnley, Chorley, Clitheroe, Fylde, Garstang, Lancaster, Lunesdale, Preston, West Lancashire.

Fire Area 43

The county boroughs of Barrow-in-Furness, and Carlisle.

The county of Cumberland.

The following districts in the county of Lancaster. *Urban Districts* : Dalton-in-Furness, Grange, Ulverston. *Rural District* : Ulverston.

The county of Westmorland. [364]

THE NATIONAL FIRE SERVICE (PRESERVATION OF PENSIONS) REGULATIONS, 1942

S. R. & O., 1942, No. 2519

November 24, 1942

In pursuance of the powers conferred on me by the Fire Services (Emergency Provisions) Act, 1941, I hereby make the following Regulations:—

1. These Regulations may be cited as the National Fire Service (Preservation of Pensions) Regulations, 1942. [365]

2. The Interpretation Act, 1889, applies for the interpretation of these Regulations as it applies for the interpretation of an Act of Parliament. [366]

3. The National Fire Service (Preservation of Pensions) (Act of 1925) Regulations, 1941, shall have effect, with the addition at the end of Regulation 8 (4) of the following proviso:—

“ Provided that in the case of a fireman who is discharged in circumstances to which this paragraph applies, the Secretary of State may, if he thinks it just so to do, direct that the fireman's approved service shall for all the purposes of the Act of 1925 be computed with such addition as may be specified in the direction not exceeding ten years and not exceeding the additional period for which he would have served after the date of his discharge if he had continued throughout to serve in the local brigade until the date which (apart from any such extension of his service as is mentioned in subsection (1) of section one of the Act of 1925) would have been the date on which he would have had to retire compulsorily under that Act on the ground of age”. [367]

4. The National Fire Service (Preservation of Pensions) (General Pension Funds) Regulations, 1941, shall have effect, with the addition at the end of Regulation 6 of the following paragraph:—

“(2) In the case of a fireman who is discharged in circumstances to which the proviso to paragraph (1) of this Regulation applies, the Secretary of State may, if he thinks it just so to do, direct that for the purposes of subsection (1) of section three of the Local Government Staffs (War Service) Act, 1939, the fireman's war service in the National Fire Service shall be computed with such addition as may be specified in the direction not exceeding ten years and not exceeding the additional period for which he would have served after the date of his discharge if he had continued throughout to serve in his civil capacity until the date which (apart from any such extension of his service as is mentioned in subsection (1) of section seven of the Local Government Superannuation Act, 1937, or subsection (1) of section seven of the Local Government Superannuation (Scotland) Act, 1937, or any similar provision in the local Act scheme, as the case may be) would have been the date on which he would have attained the age of compulsory retirement (if any) applicable in relation to his civil capacity”. [368]

5. The National Fire Service (Preservation of Pensions) (Police Firemen) Regulations, 1941, shall have effect, with the addition at the end of Regulation 8 (4) of the following proviso:—

“ Provided that in the case of a fireman who is discharged in circumstances to which this paragraph applies, the Secretary of State may, if he thinks it just so to do, direct that the fireman's approved service shall for all the purposes of the Act of 1921, be computed with such addition

as may be specified in the direction not exceeding ten years and not exceeding the additional period for which he would have served after the date of his discharge if he had continued throughout to serve in the police force until the date which (apart from any such extension of his service as is mentioned in subsection (1) of section one of the Act of 1921) would have been the date on which he would have had to retire compulsorily under that Act on the ground of age". [369]

6. The National Fire Service (Preservation of Pensions) (London and West Ham) Regulations, 1941, shall have effect, with the insertion in Regulation 8 (4) after the words " Provided that " of the following words :—

" (a) in the case of a fireman who is discharged in circumstances to which this paragraph applies, the Secretary of State may, if he thinks it just so to do, direct that the fireman's approved service shall for all the purposes of the pension provisions be computed with such addition not exceeding ten years as may be specified in the direction ; and

(b) ". [370]

7. The National Fire Service (Preservation of Pensions) (Birmingham and Leicester) Regulations, 1941, shall have effect, with the addition at the end of Regulation 8 (4) of the following proviso :—

" Provided that in the case of a fireman who is discharged in circumstances to which this paragraph applies, the Secretary of State may, if he thinks it just so to do, direct that the fireman's approved service shall for all the purposes of the Act of 1921 be computed with such addition as may be specified in the direction not exceeding ten years and not exceeding the additional period for which he would have served after the date of his discharge if he had continued throughout to serve in the brigade until the date which (apart from any such extension of his service as is mentioned in subsection (1) of section one of the Act of 1921) would have been the date on which he would have had to retire compulsorily under that Act on the ground of age ". [371]

8. The National Fire Service (Preservation of Pensions) (Bolton and Derby) Regulations, 1941, shall have effect, with the addition at the end of Regulation 7 (4) of the following proviso :—

" Provided that in the case of a fireman who is discharged in circumstances to which this paragraph applies, the Secretary of State may, if he thinks it just so to do, direct that the fireman's approved service shall for all the purposes of the Act of 1890 be computed with such addition not exceeding ten years as may be specified in the direction ".

[372]

* * * * *

THE NATIONAL FIRE SERVICE (PRESERVATION OF PENSIONS) (GENERAL PENSION FUNDS) REGULATIONS, 1942

S. R. & O., 1942, No. 2639

December 18, 1942

In pursuance of the powers conferred on me by the Fire Services (Emergency Provisions) Act, 1941, I hereby make the following Regulations :—

1. For Regulation 5 of the National Fire Service (Preservation of Pensions) (General Pension Funds) Regulations, 1941, there shall be substituted the following Regulations :—

"5. For the purposes of the Local Government Staffs (War Service) Act, 1939, whole-time service in the National Fire Service shall, in the case of a person to whom these Regulations apply, be treated as war service and, subject to the provisions of the four next succeeding Regulations, sections one to six of that Act and sections fourteen and fifteen thereof, so far as they apply to the said sections one to six, shall have effect in relation to any such person accordingly.

5A. In the case of a person to whom these Regulations apply who is a fireman and is suspended from duty, sections one and four of the Local Government Staffs (War Service) Act, 1939, shall have effect as if he had continued to receive not less remuneration as a fireman than he would have received but for the suspension." [373]

2. In Regulation 7 (1) of the said Regulations for the words "subsections (2) to (5)" there shall be substituted the words "subsection (5)", and for the words from "contributions" in that paragraph to the end of the Regulation there shall be substituted the words "contributions, if any, payable by him under subsection (2) of that section, and that any sums so deducted should be deemed to have been duly contributed by the person in question in accordance with the said subsection (2)". [374]

3. These Regulations may be cited as the National Fire Service (Preservation of Pensions) (General Pension Funds) Regulations, 1942. [375]

* * * * *

CASES

Public Health—Fire brigade—Payment for services—Request transmitted through police—Liability of owner of premises.

The appellant's farm was in the Upton police district, but in the Pershore, and not the Upton, fire district. A fire broke out on the farm, and the appellant telephoned to the police inspector at Upton and asked for the fire brigade to be sent. The Upton fire brigade was informed, and it went to the farm at once. The appellant was entitled to the services of the Pershore fire brigade without charge, but the Upton brigade, if it went to a fire outside its own area, was entitled to contract for payment for its services. At the time when the brigade was summoned, all the parties concerned were under the impression that the farm was in the Upton fire district. For the Upton fire brigade it was contended that a contract had been created by implication, under which it was entitled to be remunerated for its services :—

Held : the appellant must be treated as having asked for the Upton fire brigade to be sent to his farm, and the fact that at the time the parties thought that the fire was in its area did not prevent there being a contractual relationship. The appellant was, therefore, liable under an implied contract to pay for the brigade's services.—*UPTON-ON-SEVERN RURAL DISTRICT COUNCIL v. POWELL*, [1942] 1 All E. R. 220, C. A. [376]

FOOD AND DRUGS

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ORDERS, CIRCULARS AND MEMORANDA

THE MILK (SPECIAL DESIGNATIONS) REGULATIONS, 1942

S. R. & O., 1942, No. 771

April 21, 1942

103343.

The Minister of Health in exercise of the powers conferred on him by the Food and Drugs Act, 1938, and of all other powers enabling him in that behalf hereby makes the following regulations :—

1.—(1) These regulations may be cited as the Milk (Special Designations) Regulations, 1942, and shall come into operation on the 1st day of June, 1942.

(2) These regulations and the Milk (Special Designations) Regulations, 1936 to 1941, may be cited together as the Milk (Special Designations) Regulations, 1936 to 1942. [377]

2. The Milk (Special Designations) Order, 1936, as amended, shall be further amended by inserting in paragraph 1 (c) of section A of Part I of the Third Schedule to that order in place of the words from “ No such animal ” to “ live *Brucella abortus* ” the following :—

“ No such animal shall be inoculated or vaccinated against tuberculosis, and no such animal shall be vaccinated with live *Brucella abortus* except with the approval of the Minister of Agriculture and Fisheries and with a vaccine approved by him.” [378]

* * * * *

FOOD AND DRUGS ACT, 1938

Circular 2640

May, 1942

Sir,

I.—PROCURING SAMPLES

I am directed by the Minister of Health to say that representations have been made to him that the present arrangements for sampling articles of food, the supply of which is restricted by Orders of the Ministry of Food, are in certain respects unsatisfactory for the purposes of the Food and Drugs Act. The Minister has been in communication with the Minister of Food on this subject, and the following provision has now been included in the Sampling of Food Order, 1942, dated the 21st March, 1942, made by the Minister of Food (S. R. & O., 1942, No. 531) ;

“ 7. Where a sampling officer within the meaning of the Food and Drugs (Adulteration) Act, 1928, or the Food and Drugs Act, 1938, is authorised under those Acts to purchase or take a sample of any article of food, it shall be lawful for him, on * producing some document duly

* In the first impression of the Order the word “ on ” in Article 7 was incorrectly printed as “ in.”

authenticated for the purposes of those Acts and identifying him as such a sampling officer, to purchase or take such sample notwithstanding any restriction upon the purchase or obtaining of such article of food contained in any Order made by the Minister for the time being in force."

Sampling officers will thus be able to obtain samples of adequate size for the purposes of analysis, but Authorities will appreciate the importance of limiting the size of the samples to the minimum necessary for this purpose.

The arrangements referred to in Circular 2523 of November, 1941, respecting the sampling of milk are no longer necessary, and any authorisations obtained from Food Executive Officers in accordance with that Circular should be returned to the Food Executive Officer concerned, if that has not already been done. The arrangements whereby Food and Drugs Authorities can in certain circumstances obtain ration books with travellers' facilities for sampling purposes will remain in operation.

II.—UN SOUND FOOD

In Circular 2468 of September, 1941, Authorities were informed that the Ministry of Food desired that food found on inspection to be unfit for human consumption should be notified, subject to certain exceptions, to Food Executive Officers. The Minister is now informed that the Ministry of Food's Salvage Organisation has been revised and Authorities are asked in future to cause such notifications to be given either to the Salvage Office for the area in which the goods are lying, or to the appropriate Food Executive Officer or Divisional Food Officer, as may be found convenient. For slaughter-houses the existing arrangements remain unchanged.

The minimum quantities of food unfit for human consumption in which the Ministry of Food are normally interested for the purposes of this Circular are shown in the Appendix.

Copies of this Circular are being sent to Medical Officers of Health and to Public Analysts.

I am, Sir, etc.

[379]

APPENDIX

The Ministry of Food state that the following are the minimum quantities of food unfit for human consumption which will normally justify removal by that Department, but that when, after enemy attack, a Ministry of Food Salvage Depot has been opened in the district, smaller quantities can be dealt with there and aggregated with other such foods.

Bacon	28 lbs.
Butter and Cheese	14 lbs.
Margarine, Lard and Cooking Fats ...	14 lbs.
Sugar	28 lbs.
Eggs	1 long hundred.
Condensed Milk	1 case.
Tea	20 lbs.
Coffee	1 ton.
Cocoa Beans or Powder	1 cwt.
Dried Fruits	28 lbs.
Canned Meat, Canned Fish, Canned Vegetables, Canned Fruit and Jams.	1 package of 28 lbs. unless blown. No blown cans will be removed by the Ministry of Food, and no meat (not canned) in Butchers' shops will be removed by them.
Rice, Tapioca, Sago	
Peas, Beans, Lentils	1 cwt.
Oats and other Breakfast Cereals ...	1 cwt.
Flour	1 cwt.

[380]

CASES

Food and Drugs—Misleading label—Chain transactions—Original proceedings against retailer—Bringing in middlemen and manufacturers—Food and Drugs Act, 1938 (c. 56), ss. 65, 83, 93.

The suppliers to a retailer were prosecuted under the Food and Drugs Act, 1938, s. 6 (1), for selling food with a label which was calculated to mislead as to the nature, substance and quality of that food. The suppliers to the retailer laid an information under sect. 83 (1) of the Act against the middlemen who had supplied them and the middlemen thereupon laid an information against the manufacturers. The manufacturers contended that the power under sect. 83 (1) was exhausted when the middlemen were brought in and that the information was wrongly laid against them :—

Held : on the proper construction of sect. 83 (1) " a person against whom proceedings are brought " includes the person brought in by the original defendant to proceedings brought by the inspector and the middlemen were empowered by the section to lay an information against the manufacturers. —*BRITISH FERMENTATION PRODUCTS, LTD. v. BRITISH ITALIAN TRADING CO., LTD.*, [1942] 2 K. B. 145 ; [1942] 2 All E. R. 256 ; 111 L. J. K. B. 589 ; 167 L. T. 91 ; 106 J. P. 178 ; 58 T. L. R. 255 ; 86 Sol. Jo. 195. [381]

Food and Drugs—Milk—Standard of quality—Milk solids—Evidence that deficiency due to natural causes—Evidence excluding possibility of interference with milk.

The respondent was charged with selling milk deficient in milk solids, contrary to the Food and Drugs Act, 1938, s. 3 (1). Regulations made under the Act provide that, where a sample of milk contained less than 8·5 per cent. of milk solids other than milk fat, it was to be presumed, until the contrary was proved, that the milk was not genuine, by reason of the abstraction of the solids or the addition of water. The milk sold by the respondent had only 7·99 per cent. of the solids, and it had been left in his dairy for a period of 13 hours, during which time it was not constantly under supervision. The respondent gave evidence to show that the milk he sold was genuine milk, and that the deterioration in quality was due to a reduction in the feeding stuffs available since the outbreak of war. Upon this evidence the magistrates came to the conclusion that the respondent sold the milk in the same condition as when it was drawn from the cow and dismissed the information against him. The appellant contended that the magistrates were not entitled to come to this conclusion, as the evidence produced by the respondent did not exclude every possibility of the milk being tampered with :—

Held : there was evidence to support the conclusion at which the magistrates had arrived. As the respondent's defence was that the deficiency of solids was accounted for by natural causes, it was unnecessary for him to prove in addition that there had been no possibility of anyone tampering with the milk.—*CHURCHER v. REEVES*, [1942] 1 K. B. 172 ; [1942] 1 All E. R. 69 ; 111 L. J. K. B. 136 ; 166 L. T. 150 ; 106 J. P. 66 ; 58 T. L. R. 69 ; 86 Sol. Jo. 28 ; 40 L. G. R. 9, D. C. [382]

Food and Drugs—Misleading label—Proceedings against manufacturer—No portion of sample delivered to manufacturer—Food and Drugs Act, 1938 (c. 56), ss. 6 (1), 70, 83.

An inspector purchased for analysis a tin of egg substitute from a retailer. A label on the tin stated that every ounce of the substitute equalled six eggs in effect and the name of the respondents was mentioned as the manufacturers. The purchase was made for the purpose of analysis and the procedure provided for by the Food and Drugs Act, 1938, s. 70, was observed, one part being

sent for analysis, one part handed to the retailer and the third being retained by the inspector. The respondents were prosecuted under sects. 6 (1) and 83 (3) of the Act in that they unlawfully gave a food sold by them a label calculated to mislead as to the nature, substance and quality of the food. They contended that the purchase having been made for analysis by the public analyst, they could not be prosecuted unless they had been supplied with a portion of the food to be analysed and that sect. 70 required the inspector to deliver such a portion to them :—

Held : the prosecution being for an offence under sect. 6 (1) and the proceedings being brought under sect. 83 (3) of the Act, it was unnecessary that the respondents should have received a portion of the article bought for analysis and the provisions of sect. 70 did not apply to these proceedings.—*CUMMINGS v. BRITISH FERMENTATION PRODUCTS, LTD.*, [1942] 2 K. B. 108 ; [1942] 2 All E. R. 271 ; 111 L. J. K. B. 581 ; 167 L. T. 140 ; 106 J. P. 185 ; 58 T. L. R. 256 ; 86 Sol. Jo. 175. [383]

Food and Drugs—False warranty—Limitation of time—Goods sampled but proceedings taken against wholesaler for false warranty—Food and Drugs Act, 1938 (c. 56), ss. 80 (a), (b), 85 (2).

The appellants, who were wholesalers, sold a large quantity of packets of egg substitute to a distributing firm, who sold a part of them to a retailer. The invoice given by the appellants in respect of these goods contained a warranty that they complied with all statutory requirements. The labels on the packets stated that the contents of each packet was equal to 3 eggs. An inspector bought a quantity of this article from the retailer, followed the statutory procedure and sent a sample for analysis. The analysis, though it showed that the claim made on the label was false, was not received in time to prosecute the retailer, and a prosecution was brought against the wholesaler for giving a false warranty. It was contended that, since the purchase was made from the retailer and the sample had been dealt with according to the statutory procedure, the proceedings should have been brought within 28 days under sect. 80 (a) and not within 12 months under sect. 80 (b) of the Food and Drugs Act, 1938 :—

Held : the proceedings being brought against the wholesaler for false warranty, the appropriate limitation of time was 12 months under sect. 80 (b).—*HERMAN JENNINGS & CO., LTD. v. SLATCHER*, [1942] 2 K. B. 115 ; [1942] 2 All E. R. 1 ; 111 L. J. K. B. 506 ; 167 L. T. 137 ; 106 J. P. 189 ; 58 T. L. R. 289 ; 86 Sol. Jo. 253, D. C. [384]

GAS

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ORDERS, CIRCULARS AND MEMORANDA

THE GAS FUND (CONTRIBUTION) ORDER, 1942

S. R. & O., 1942, No. 85

January 15, 1942

In pursuance of the powers conferred upon them by Section 7 of the Gas Regulation Act, 1920, as amended by the Gas Undertakings Act, 1934,

and of all other powers enabling them in that behalf the Board of Trade hereby prescribe as follows :—

1. The rate of contribution to the Gas Fund for the year 1942 shall be—
 - (a) sixpence for each five thousand therms in the form of gas sold during the year 1941 (excluding gas sold to other undertakers in bulk for distribution and gas supplied separately for industrial purposes only); and
 - (b) threepence for each five thousand therms in the form of gas supplied separately for industrial purposes only during the year 1941. [385]

2. Such contribution shall be paid on or before the 1st April, 1942, to the Board of Trade, at New Oxford House, Bloomsbury Way, London, W.C.1, by all Gas Undertakers with respect to whom an Order under the Gas Regulation Act, 1920, shall have been made or to whom subsection (3) of Section 7 of that Act applies by virtue of any public general Act, Special Act or Special Order. [386]

3. Payment of the contribution shall be by cheque made payable to the "Board of Trade" and crossed "Bank of England". [387]

4. This Order may be cited as the Gas Fund (Contribution) Order, 1942. [388]

* * * * *

AUTHORITY MADE BY THE BOARD OF TRADE IN RESPECT OF GAS ACCOUNTS

S. R. & O., 1942, No. 188

January 28, 1942

The Board of Trade in pursuance of their powers under a Direction and Order dated 29th March, 1941, and a Direction dated 4th June, 1941, made by them hereby authorise any public utility undertaking (hereinafter called "the undertaking") for the supply of gas, being an undertaking carried on by a company (being a company incorporated by, or in pursuance of, any Act of Parliament, or by Royal Charter) or a local authority, to supply copies of the accounts of the undertaking or of any report or other document relating to the operation of the undertaking which discloses information contained in those accounts to the following persons :—

- (a) where the undertaking is carried on by a local authority, the members of that authority;
- (b) where the undertaking is carried on by a company as aforesaid, the directors of that company;

Provided that any such copies of accounts, report or other documents as aforesaid shall each be clearly marked with a statement that it is confidential and that it is not to be communicated to any person other than a member of such local authority or director of such company, as the case may be. [389]

* * * * *

THE GAS (SPECIAL ORDERS) RULES, 1942

S. R. & O., 1942, No. 1793

August 8, 1942

The Minister of Fuel and Power (in these Rules referred to as "the Minister") in pursuance of the powers conferred upon him by section 16 of the Gas Regulation Act, 1920, hereby makes the following rules :—

1. Every applicant for an Order shall cause an advertisement of the intended application to be published in the London or Edinburgh Gazette, as the case may require, and once in a local newspaper circulating in the area to which the application relates. [390]

2. Every such advertisement shall contain :—

- (1) the description and address of the applicant ;
- (2) a short general statement of the objects of the application ;
- (3) an intimation that a description of :—
 - (i) any proposed area of supply ;
 - (ii) any land which it is proposed to use for the manufacture or storage of gas or the manufacture or conversion of residual products ;may be inspected at the address mentioned in the advertisement at which copies of the Draft Order may be purchased, on or before the date mentioned in the advertisement as that on or before which a registered letter setting out objection to the Draft Order must be despatched to the Minister, as provided by or under these Rules ;
- (4) an intimation to the effect, and in the form as near as may be, of paragraph (1) of Rule 7 of these Rules ;
- (5) a list of the addresses at or to which, as provided by or under these Rules, copies of the Draft Order and of any maps have been deposited or sent for public inspection ; and
- (6) the address of an office situate within the existing or proposed area of supply at which copies of the Draft Order may be purchased.

[391]

3. On or before the date on which publication of such advertisement is completed, the applicant shall :—

- (1) serve personally or by registered post a copy of the advertisement and of the description referred to in paragraph (3) of Rule 2 of these Rules on :—
 - (a) every person supplying or authorised to supply gas within any area proposed to be supplied by the applicant ;
 - (b) the owner and lessee of every railway, tramway, or canal along or across which it is proposed to lay pipes or which it is proposed otherwise to affect or interfere with ;
- (2) serve personally or by registered post on the owner, lessee and occupier of every dwellinghouse situate within 300 yards of any land proposed to be used for the manufacture or storage of gas or the manufacture or conversion of residual products, a copy of the advertisement and of such part of the description referred to in paragraph (3) of Rule 2 of these Rules as relates to any such land within 300 yards of which such dwellinghouse is situate ;
- (3) deposit or send by registered post a copy of the advertisement, of the description referred to in paragraph (3) of Rule 2 of these Rules and of the Draft Order :—
 - (a) at or to the office of every local authority having jurisdiction within the existing or any proposed area of supply ;
 - (b) at or to the Home Office (or, if the application relates to Scotland, the Scottish Home Department), Ministry of Health (or, if the application relates to Scotland, the Department of Health for Scotland), Ministry of War Transport, Ministry of Works and Planning, Office of the Commissioners of Crown Lands, and General Post Office in

London, and, if the Draft Order affects the Duchy of Lancaster or the Duchy of Cornwall, at or to any office of such Duchy ;

- (4) deposit or send by registered post a copy of any maps required by paragraphs (6) and (7) of Rule 4 of these Rules at or to the office of the Clerk of the Parliaments, House of Lords, and the Committee and Private Bill Office, House of Commons ;
- (5) deposit or send by registered post, for public inspection, a copy of the Draft Order and of any maps required by paragraphs (6) and (7) of Rule 4 of these Rules ;
 - (a) at or to an office situate within the existing or proposed area of supply ;
 - (b) at or to the office of the clerk of the council of every administrative county and the town clerk of the council of every county borough in England and Wales having jurisdiction within the existing or any proposed area of supply ;
 - (c) at or to the office of the principal sheriff clerk for each county in Scotland within which any part of the existing or any proposed area of supply is situate and, where any such county is divided into districts for sheriff court purposes, at or to the office of the sheriff clerk in each of such districts within which any part of the existing or any proposed area of supply is situate ;

so however that as regards (b) and (c) any maps required by paragraph (7) of Rule 4 of these Rules may be limited to any land situate within the jurisdiction of such council, as aforesaid or, as the case may be, within such county, or districts of a county, in Scotland, and to any land situate within 300 yards of such jurisdiction, county or district of a county, as the case may be ;

- (6) deposit a sufficient number of copies of the Draft Order at the office referred to in paragraph (6) of Rule 2 of these Rules for sale at a price not exceeding one shilling each. [392]

4. The application for an Order shall be made in writing by the applicant to the Minister within seven days of the date on which publication of such advertisement is completed and the applicant shall, at the same time, pay the sum of £35 to and deposit with the Minister :—

- (1) a copy of the Gazette and of the newspaper containing the advertisement ;
- (2) a copy of the description referred to in paragraph (3) of Rule 2 of these Rules ;
- (3) a list of the names and addresses of the persons upon whom a copy of the advertisement and of the description has been served in accordance with paragraphs (1) (a) and (b) and (2) of Rule 3 of these Rules ;
- (4) a list of the local authorities with or to whom a copy of the advertisement, of the description and of the Draft Order have been deposited or sent by registered post in accordance with paragraph (3) (a) of Rule 3 of these Rules ;
- (5) four copies of the Draft Order ;
- (6) if it is proposed that the applicant should be authorised :—
 - (a) to supply gas in any area in which the applicant is not already authorised to supply gas, or

- (b) to use any land for the manufacture or storage of gas or the manufacture or conversion of residual products,
 - ° an Ordnance Map, or a photographic copy thereof, on a scale of not less than one inch to the mile showing :—
 - (i) the boundaries of the area in which it is proposed that the applicant should be authorised to supply gas, and of any area in which the applicant is already authorised to supply gas, and
 - (ii) the situation of the land which it is proposed the applicant should be authorised to use for the manufacture or storage of gas or the manufacture or conversion of residual products and of any land which the applicant is already authorised to use therefor ; and
- (7) if it is proposed to authorise the use of any land for the manufacture or storage of gas or the manufacture or conversion of residual products, an Ordnance Map, or a photographic copy thereof, on the scale of 25 inches to the mile showing the land to be so used ;
- (8) if the applicant is not a local authority :—
 - (a) a statement of the existing capital and any borrowing powers showing the amounts authorised, raised and expended ; and
 - (b) if capital or borrowing powers are sought, a certified statement showing under separate heads, the purposes for which the capital or borrowing powers are required and the amount required for each purpose ;
- (9) if the applicant is a company incorporated under the provisions of the Companies Acts, a copy of its Memorandum and Articles of Association and of every registered special resolution of the company ;
- (10) a list of every special Act of Parliament and Order having the force of an Act relating to any gas undertaking carried on by the applicant. [393]

5.—(1) Notwithstanding anything contained in any of the preceding Rules, the Minister may, if he is of opinion that it is desirable for securing the public safety, the defence of the realm, the efficient prosecution of any war in which His Majesty may be engaged or for maintaining supplies and services essential to the life of the community, by direction, and to such extent and on such terms and subject to such conditions (if any) as may be specified in the direction, exempt any applicant or any class or description of applicants from compliance with all or any of the provisions of such Rules ; and any such direction shall, if by reason thereof no advertisement is required, make provision for publication, in such manner as the Minister may think best adapted for informing persons affected, of notice of the application ; and these Rules shall be read, construed and have effect as altered or modified to such extent as may be necessary.

(2) The Minister may rescind or vary any direction given by him under this Rule. [394]

6. The applicant, or his agents, shall satisfy the Minister that the provisions of these Rules, subject nevertheless to any necessary alteration or modification by reason of any direction given under Rule 5 of these Rules, and of any such direction, have been complied with. [395]

7.—(1) Any local or other public authority, company or person desiring to bring before the Minister any objection to the Draft Order may do so by registered letter addressed to the Minister and despatched on or before a

date to be stated in the advertisement mentioned in Rule 1 of these Rules or, in a case in which no advertisement is required by reason of a direction given under Rule 5 of these Rules, to be specified in such direction, which date shall not be earlier than 30 days after the date on which publication of the advertisement will be completed, or, as the case may be, on which the direction is given. Any such objection shall state :—

- (a) the specific grounds of objection ; and
- (b) the omissions, additions or modifications asked for.

A copy of the objection shall be forwarded to the applicant for the Order, or his agents, at the same time as it is sent to the Minister.

(2) No part of the month of August shall, unless the Minister otherwise directs, be included in calculating the above-mentioned period of 30 days.

(3) As soon as practicable after the period allowed for bringing objection before the Minister has expired, the applicant shall furnish the Minister :—

- (a) with a reply to any objection which has been made ; and
- (b) with three copies of the Draft Order showing any amendments which the applicant proposes should be made therein.

A copy of the reply to any objection shall at the same time be sent to the objector. **[396]**

8. The applicant shall furnish the Minister with such information and documents as he may require in connection with the application, including :—

- (1) if it is proposed to authorise the use of any land for the manufacture or storage of gas or the manufacture or conversion of residual products, the deed of conveyance or lease to, or the contract for purchase by, the applicant of all land to be so used ;
- (2) if the applicant is a company applying for capital or borrowing powers or proposing to purchase or amalgamate with another undertaking, a certified copy of a resolution approving the application, passed by shareholders or stockholders qualified to vote at ordinary meetings of the company who were present (either in person or by proxy) at a general meeting and who held at least three-fourths of the paid-up capital of the company represented by the votes at such meeting together with a certified copy of the notice convening the meeting ;
- (3) if the applicant proposes to purchase or to amalgamate with another undertaking, evidence that the purchase or amalgamation is approved by the proprietors of the other undertaking concerned.

[397]

9. In addition to the sum of £35 mentioned in Rule 4 of these Rules, the applicant shall pay to the Minister on demand all the costs incurred by or on behalf of the Minister in relation to an inquiry into the application.

[398]

10.—(1) In these Rules and (unless the contrary intention appears) in every direction given under these Rules, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say :—

“ Local authority ” means, in relation to England and Wales, the council of an administrative county, a county borough or a county district, the common council of the City of London, or the council of a metropolitan borough ; and, in relation to Scotland, a county or town council ;

“ Occupier ” means any ratepayer and any other person, not being a ratepayer, whose interest in the premises occupied is not less than that of a quarterly tenant ;

“ Order ” means a Special Order in pursuance of Section 10 of the Gas Regulation Act, 1920 ; and

"Draft Order" means the Order applied for or to be applied for by the applicant.

(2) References in these Rules to the advertisement mentioned in Rule 1 of these Rules shall, where the context so admits, be construed as including references to any advertisement specified in a direction given under Rule 5 of these Rules.

(3) For the purposes of these Rules and (unless the contrary intention appears) of every direction given under these Rules the publication of the advertisement shall be deemed to be completed on the date of the issue of the Gazette or local newspaper (whichever is issued the later) in which the advertisement of the intended application was published, or as may be specified in any direction given by the Minister under the provisions of Rule 5 of these Rules. [399]

11. The Gas (Special Orders) Rules, 1941, are hereby revoked. [400]

12.—(1) These Rules shall come into force on the 11th day of August, 1942, and may be cited as the Gas (Special Orders) Rules, 1942.

(2) The Interpretation Act, 1889, shall apply to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament. [401]

* * * *

THE GAS CHARGES ORDER, 1942

S. R. & O., 1942, No. 2628

December 12, 1942

The Minister of Fuel and Power (in this Order referred to as "the Minister") in pursuance of Regulation 55 of the Defence (General) Regulations, 1939, hereby orders as follows :—

1. No undertaker shall, except under the authority of a permit, increase any price charged by him in respect of the supply of gas. [402]

2.—(1) Nothing in Article 1 of this Order shall prohibit or be deemed to prohibit any undertaker from increasing the price charged by him in respect of the supply of gas :—

(a) to any person in pursuance of a specific contract between such undertaker and that person whereby gas is supplied on terms which provide for variation, as specified in such contract, in the price charged for such gas according to the cost of coal to such undertaker, or to the quantity of gas supplied during any period to that person, or to such cost and quantity supplied, by such amounts as are mentioned in that contract in respect thereof ;

(b) in any period to any person carrying on a factory (not being an undertaking) in a case in which the gas so supplied for consumption at that factory during the year immediately preceding that period was not less than 150,000 cubic feet, provided that prior notice in writing of the intention of the undertaker to increase such price, and of the amount of such increase, is given by him to the Minister ; so however that if at any time the Minister so thinks fit he may direct that, as from the date specified in such direction, any such undertaker as is mentioned in such direction shall not, except under the authority of a permit, increase the price charged by him for the supply of gas to any person, also mentioned in such direction, carrying on such a factory in such a case as aforesaid.

(2) Any direction given under paragraph (1) of this Article may be given so as to apply generally or to any class or description of undertakers or persons as aforesaid or to any particular undertaker or person as aforesaid. * [403]

3. Nothing in Article 1 or 2 of this Order respectively shall entitle or shall be deemed to entitle the Minister to authorise any undertaker to increase the price charged by him in respect of the supply of gas or any undertaker to increase such price, by any amount exceeding the statutory maximum price if any. [404]

4.—(1) Any permit may be granted subject to such conditions as the Minister shall deem necessary.

(2) The Minister may revoke or vary any permit.

(3) Every condition contained in any permit granted under this Order shall be complied with by every person or by every person of the class or description in whose favour the permit is granted; and the breach of any such condition shall be and shall be deemed to be a contravention of this Order.

(4) If any permit granted under this Order is revoked by the Minister the holder of such permit shall forthwith deliver it up as directed by the Minister. [405]

5. In this Order and (unless the contrary intention appears) in every permit granted and direction given under the provisions of this Order, the following expressions have, unless the context otherwise requires, the meanings hereby respectively assigned to them, that is to say:—

“Statutory maximum price” means the maximum price which the undertaker supplying the gas may charge therefor by or under any applicable enactment or Order.

“Undertaker” means any person carrying on an undertaking (including a public utility undertaking), whether or not such carrying on is authorised by any Act (whether public, general or local) or by an Order made under, or confirmed by, an Act, involving the supply of gas to the public; and

“Undertaking” shall be construed accordingly. [406]

6.—(1) The Defence (Gas Charges) Order, 1941, is hereby revoked.

(2) Any licence authorising undertakers to increase the price charged in respect of the supply of gas granted in pursuance of the provisions of the Defence (Gas Charges) Order, 1941, which was in force immediately before the coming into force of this Order (other than the General Licences granted by the Board of Trade on the 9th day of June, 1941, and on the 15th day of August, 1941, shall be deemed to be a permit granted under the provisions of Article 1 of this Order and shall have effect accordingly. [407]

7. This Order shall come into force on the 1st day of January, 1943, and may be cited as the Gas Charges Order, 1942. [408]

* * * *

THE GAS (MAXIMUM AND STANDARD PRICES) ORDER AND GENERAL DIRECTION, 1942

S. R. & O., 1942, No. 2629

December 14, 1942

The Minister of Fuel and Power (in this Order and Direction referred to as “the Minister”) in pursuance of Regulation 56 of the Defence (General) Regulations, 1939, hereby orders and directs as follows:—

1. Notwithstanding the provisions of any enactment or Order (other than the Gas Charges Order, 1942, prescribing the maximum price which may be charged by an undertaker in respect of gas supplied by him, such undertaker may, in a case in which :—

- (a) the quantity of gas manufactured in any quarter by such undertaker did not exceed ninety-five per centum of the quantity manufactured in the corresponding period in the year 1938 ; or
- (b) the net cost of coal and oil per therm to such undertaker in any quarter exceeded that shewn by the accounts of the undertaking for the financial year of the undertaking ending on or next before the 15th day of May, 1939 ; or
- (c) such quantity of gas did not exceed such per centum and such net cost exceeded that so shewn as aforesaid ;

charge consumers in respect of gas so supplied to them during the next succeeding quarter a price not exceeding the permitted price in relation to that quarter ; so however that any undertaker, being a local authority, shall not charge a price exceeding such maximum price if it appears to such undertaker that the receipts on account of the revenue of the undertaking will exceed the expenditure in respect thereof calculated in accordance with the provisions of any enactment or Order prescribing the form of accounts to be kept in relation to the undertaking carried on by such undertaker.

[409]

2. In the case of an undertaker being a company, if in any financial year of the undertaker a price exceeding the maximum price prescribed by any enactment or Order relating to the undertaking carried on by such undertaker is, in pursuance of the provisions of Article 1 of this Order and Direction, charged, no sum, being a sum which may be divided among the holders of the share capital of the undertaking, shall be taken from the profits of the undertaking in respect of that financial year exceeding the aggregate of amounts calculated at the following rates on so much of the authorised share capital of the undertaking as is issued, that is to say :—

- (a) in respect of preference share capital, at the rate of dividend fixed in respect of such capital ; and
- (b) in respect of each class of ordinary share capital, at a rate equal to one per centum less than the average of the rates of dividend paid on that capital in respect of the financial years of the undertaking ending in 1936, 1937 and 1938, or, where the rate so determined is less than five per centum, at a rate equal to the said average of five per centum whichever is the less. [410]

3. In the case of any undertaker being a company, where the provisions of any enactment or Order relating to the undertaking carried on by such undertaker prescribe a standard price in respect of gas supplied by such undertaker and provide for variations in the amount which may be taken from the profits of the undertaking for division among the holders of the share capital of the undertaking according to the highest price actually charged by such undertaker in respect of gas, and the quantity of gas manufactured in any quarter by such undertaker did not exceed ninety five per centum of the quantity manufactured in the corresponding period in the year 1938, or the net cost of coal and oil per therm to such undertaker in any quarter exceeded that shewn by the accounts of the undertaking for the financial year of the undertaking ending on or next before the 15th of May, 1939, or such quantity of gas did not exceed such per centum and such net cost exceeded that so shewn as aforesaid (as the case may be), for the purpose of determining under those provisions the amount which the undertaker may take from the profits of the undertaking for division among the holders of share capital of the undertaking in respect of any financial year of such

undertaking the undertaker shall not be required to take into account such part of the price charged by such undertaker for gas supplied during the quarter next succeeding that aforesaid as exceeds the pre-war price but does not exceed the permitted price in relation to that quarter ;

Provided nevertheless that such undertaker shall not, by virtue of this provision, be entitled to take from the profits of the undertaking for such purpose a sum exceeding the aggregate of amounts calculated at the following rates on so much of the authorised share capital of the undertaking as is issued, that is to say :—

- (i) in respect of preference share capital, at the rate of dividend fixed in respect of such capital, and
- (ii) in respect of each class of ordinary share capital, at a rate equal to one per centum less than the average of the rates of dividend paid on that capital in respect of the financial years of the undertaking ending in 1936, 1937 and 1938 or, where the rate so determined is less than five per centum, at a rate equal to the said average or five per centum whichever is the less. [411]

4. The provisions contained in the preceding Articles of this Order and Direction shall not apply to any undertaker in relation to any quarter during which the charges made by the undertaker for the hire of meters or fittings are or were in excess of the charges current in respect of such meters or fittings on the 2nd day of September, 1939 ; so however that no account shall be taken of any such excess which is attributable solely to the payment of purchase tax upon any meter or fitting. [412]

5. In respect of any financial year of an undertaking during or in respect of which anything is done by the undertaker carrying on such undertaking by virtue of the provisions contained in Articles 1, 2 and 3 of this Order and Direction, the following provisions shall have effect :—

- (a) no appropriation shall be made out of the revenues or profits of the undertaking to any fund for reserves, special purposes, or the like objects, or (except under the authority of a permit) to any fund for renewals, exceeding an amount equal to the average of the appropriations made to that fund in respect of the financial years ending in 1936, 1937 and 1938 ;
- (b) except under the authority of a permit, no sum shall be charged against the revenue of the undertaking in respect of the repair or maintenance of the works or plant thereof exceeding an amount equal to the average of the amounts charged therefor in respect of the financial years ending in 1936, 1937 and 1938 ;
- (c) no undertaker, being a company, shall charge any sum against the revenue of the undertaking carried on by him in respect of the remuneration of the directors of the company exceeding the amount charged therefor in respect of the financial year ending in 1938. [413]

6. If in respect of any undertaking an enactment or Order which fixes or amends a maximum price or standard price in respect of the supply of gas has come into force since the 2nd day of December, 1939, or comes into force after the making of this Order and Direction the powers conferred by this Order and Direction shall not be exercisable by the undertaker carrying on such undertaking. [414]

7.—(1) Any permit may be granted subject to such conditions as the Minister shall deem necessary.

(2) The Minister may revoke or vary any permit.

(3) Every condition contained in any permit granted under this Order and Direction shall be complied with by every person or by every person

of the class or description in whose favour the permit is granted or is deemed to have been granted; and the breach of any such condition shall be and shall be deemed to be a contravention of this Order and Direction.

(4) If any permit granted under this Order and Direction is revoked by the Minister the holder of such permit shall forthwith deliver it up as directed by the Minister. [415]

8. In this Order and Direction and (unless the contrary intention appears in every permit granted under the provisions of this Order and Direction, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say :—

The several words and expressions to which meanings are assigned by the Gas Undertakings Acts, 1920 to 1934, shall have the same respective meanings unless there is something in the subject or context repugnant to such construction.

“Company” means any company incorporated by or in pursuance of any Act of Parliament or by Royal Charter.

“Local Authority” means, in relation to England and Wales, the council of a county, county borough, or county district; and, in relation to Scotland, a county or town council; and includes a board constituted from among the members of two or more of such councils;

“Net cost of coal and oil per therm” means, in relation to any undertaker in any quarter or, as the case may be, year, the cost to such undertaker of the coal used by such undertaker in the manufacture of gas and of the coke and oil converted by such undertaker into gas during that period less the value of saleable coke produced by such undertaker during that period (calculated, in respect of unsold stocks, at the average price per ton at which coke was sold by such undertaker during that period), divided by the number of therms in the form of gas sold by such undertaker during that period; so however that references to a therm shall, in relation to any undertaker who is not authorised to charge for gas according to the number of British Thermal Units supplied, have effect as if they were references to 1,000 cubic feet of gas.

“Permit” means permit granted by the Minister.

“The permitted price” means, in relation to any quarter, the pre-war price with the following additions, or either of them, that is to say :—

- (a) where the quantity of gas manufactured by the undertaker in the last preceding quarter was less than the quantity manufactured by such undertaker in the corresponding period in the year 1938, the addition of $\frac{1}{10}d.$ per therm in respect of each quantity equal to one per centum of the latter quantity by which the former quantity is less than the latter quantity; and
- (b) where the net cost of coal and oil per therm to the undertaker in the last preceding quarter exceeded that shewn by the accounts of the undertaking for the financial year of the undertaking ending on or next before the 15th day of May, 1939, the addition of the amount of that excess;

so however that in relation to any undertaker who is not authorised to charge for gas according to the number of British Thermal Units supplied, there shall be substituted “ $\frac{1}{2}d.$ per 1,000 cubic feet” for “ $\frac{1}{10}d.$ per therm”.

“Pre-war price” means the price stated by the undertaker in the notice current on the 2nd day of September, 1939, for the purposes of Section 6 of the Gas Undertakings Act, 1934, or, if there be no such notice, the highest price lawfully charged by the undertaker for gas supplied on that date. [416]

9.—(1) The Defence (Gas Charges) Order, 1939, is hereby revoked. [417]

10. This Order and General Direction shall come into force on the first day of January, 1943, and may be cited as the Gas (Maximum and Standard Prices) Order and General Direction, 1942. [418]

* * * * *

THE GAS SUPPLY (WAR DAMAGE) ORDER, 1942

S. R. & O., 1942, No. 2630

December 12, 1942

The Minister of Fuel and Power in pursuance of Regulation 56 of the Defence (General) Regulations, 1939, hereby orders as follows :—

1. If any undertaking, or the works or plant of any person by whom gas is supplied in bulk to that undertaking, has suffered war damage whereby the undertaker carrying on the undertaking is prevented during any period from giving a supply of gas for any premises, under such pressure in any main or pipe as is required to be maintained by or under any enactment, the obligation of that undertaker, otherwise than under a direction given in pursuance of Regulation 56 aforesaid, to give and continue to give a supply of gas for those premises is hereby relaxed during such period. [419]

2. If any undertaker is prevented during any period from maintaining a supply of gas of the declared calorific value by reason of war damage to the undertaking, or to the works or plant of any person by whom gas is supplied in bulk to the undertaking, the obligation of that undertaker to supply gas of that value is hereby relaxed during such period. [420]

3. If in any quarter during which any such period as is mentioned in Article 2 of this Order occurs in whole or in part the average calorific value of gas supplied by the undertaking, as ascertained from reports of tests made during that quarter, is less than the declared calorific value by reason of war damage having occurred during such period as aforesaid, the obligation of the undertaker supplying the gas to make any payment or allow any credit in respect of any excess revenue is hereby relaxed. [421]

4. In this Order, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say :—

“Declared calorific value” and “excess revenue” have the meanings respectively assigned to them by the Gas Undertakings Acts, 1920 to 1934.

“Undertaking” means a public utility undertaking for the supply of gas; and “undertaker” shall be construed accordingly.

“War damage” means damage occurring as a result of action taken by the enemy, or action taken in combating the enemy, or in repelling an imagined attack by the enemy, or measures taken under proper authority to avoid the spreading of, or otherwise to mitigate, the consequences of damage occurring as a result of such action as aforesaid, or precautionary or preparatory measures taken under proper authority in anticipation of action by the enemy. [422]

5. The Gas Supply (War Damage) Order, 1940, and the Gas Supply (War Damage) Order, 1941, are hereby revoked. [423]

6. This Order shall come into force on the first day of January, 1943, and may be cited as the Gas Supply (War Damage) Order, 1942. [424]

* * * * *

GOVERNMENT CONTROL

ORDERS, CIRCULARS AND MEMORANDA:—

Defence (General) Regulations, Regulations 49, 54B amended - - - 175

ORDERS, CIRCULARS AND MEMORANDA

ORDER IN COUNCIL AMENDING REGULATIONS . . . 49, 54B . . . OF THE DEFENCE (GENERAL) REGULATIONS, 1939

S. R. & O., 1942, No. 1881

September 17, 1942

7. Regulation forty-nine of the principal Regulations shall be amended by the insertion, after the words "the Board of Trade" in paragraph (1), and after the words "references to" in paragraphs (3) and (4), of the words "the Board of Education", and paragraph (4) of Regulation fifty-four B of the principal Regulations shall be omitted. [425]

* * * * *

HARBOURS, DOCKS AND WHARVES

ORDERS, CIRCULARS AND MEMORANDA:—
Littlehampton Harbour Board
(Postponement of Election)
Order, 1942 - - - 175

Mersey Docks and Harbour Board
(Temporary Provisions) Order,
1942 - - - 176
Blyth Harbour Commissioners
(Temporary Provisions) Order,
1942 - - - 176

ORDERS, CIRCULARS AND MEMORANDA

LITTLEHAMPTON HARBOUR BOARD (POSTPONEMENT OF ELECTION) ORDER, 1942

S. R. & O., 1942, No. 574

March 27, 1942

Whereas application has been made on behalf of the Littlehampton Harbour Board praying that His Majesty may be graciously pleased to make an Order in Council under section two of the Chartered and Other Bodies (Temporary Provisions) Act, 1939, with respect to the elected members of the said Board referred to in paragraph (c) of section twelve of the Littlehampton Harbour and Arun Drainage Outfall Act, 1927:

Now, therefore, His Majesty, in exercise of the powers conferred on him by the said section two, and of all other powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows:—

1.—(1) So much of subsections (1) and (2) of section thirteen of the Littlehampton Harbour and Arun Drainage Outfall Act, 1927, as relates to the election and retirement of the elected members of the said Board shall not have effect in relation to the year nineteen hundred and forty-two.

(2) No person shall, by virtue of any enactment or rule of law, be required to perform any duty solely for the purpose of the election which by virtue of this Order is not to be held. [426]

2.—(1) This Order may be cited as the Littlehampton Harbour Board (Postponement of Election) Order, 1942.

(2) This Order shall have effect as from the first day of January, nineteen hundred and forty-two.

(3) The Interpretation Act, 1889, shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament. [427]

* * * * *

THE MERSEY DOCKS AND HARBOUR BOARD (TEMPORARY PROVISIONS) ORDER, 1942

S. R. & O., 1942, No. 1406

July 18, 1942

* * * * *

Whereas by the Mersey Docks and Harbour Board (Temporary Provisions) Order, 1940, provision was made under section two of the Chartered and Other Bodies (Temporary Provisions) Act, 1939, with respect to the Mersey Docks and Harbour Board :

And whereas application has been made on behalf of the said Board praying that His Majesty may be graciously pleased to make further provision under that section with respect to the said Board :

Now, therefore, His Majesty in exercise of the powers conferred on Him by sections two and four of the said Act and of all other powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :—

1.—(1) The Mersey Docks and Harbour Board (Temporary Provisions) Order, 1940, shall have effect with the substitution for references to the year nineteen hundred and forty-three of references to the year nineteen hundred and forty-four, and for the reference to the year nineteen hundred and forty-two of a reference to the year nineteen hundred and forty-three.

(2) Paragraph (1) of Article 2 of the said Order shall have effect with the substitution for the first reference to paragraph (2) of section eighteen of the Mersey Docks and Harbour Act, 1857, of a reference to paragraph (1) of that section. [428]

2. This Order may be cited as the Mersey Docks and Harbour Board (Temporary Provisions) Order, 1942. [429]

* * * * *

THE BLYTH HARBOUR COMMISSIONERS (TEMPORARY PROVISIONS) ORDER, 1942

S. R. & O., 1942, No. 2564

December 16, 1942

* * * * *

Whereas in pursuance of the powers conferred by section two of the Chartered and Other Bodies (Temporary Provisions) Act, 1939, His Majesty in Council was pleased to make, by the Blyth Harbour Commissioners

(Temporary Provisions) Order, 1940, provision for the continuance in office of the elected Commissioners under the Blyth Harbour Act, 1912, until the second Thursday in the month of February, nineteen hundred and forty-three :

And whereas application has been made on behalf of the Blyth Harbour Commissioners praying that His Majesty may be graciously pleased to make further provision for the continuance in office of the elected Commissioners :

Now, therefore, His Majesty, in pursuance of the powers conferred on Him by section two and section four of the said Act of 1939, and of all other powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :—

1. The persons who are the elected Commissioners on the tenth day of February, nineteen hundred and forty-three, shall continue in office as if under the provisions of section twelve of the Blyth Harbour Act, 1912 (which relates to the triennial retirement and election of elected Commissioners) the next day for the retirement of elected Commissioners and the election of Commissioners to supply the vacancies were the second Thursday in the month of February, nineteen hundred and forty-six, and accordingly the election of Commissioners which would but for this Order fall to be held on the eleventh day of February, nineteen hundred and forty-three, shall not be held, and no list of electors shall be prepared or revised therefor. [430]

2.—(1) Any vacancy among the Commissioners elected by coal owners or the Commissioners elected by ship-owners occurring by death, resignation or disqualification after the tenth day of February, nineteen hundred and forty-three and before the second Thursday in the month of February, nineteen hundred and forty-six shall, in lieu of being filled in the manner specified in section forty of the said Act of 1912, be filled by the co-option of a Commissioner by the remaining Commissioners elected by coal owners or ship-owners, as the case may be.

(2) If the Commissioner elected by traders vacates his office, by death, resignation or disqualification, at any time before the second Thursday in the month of February, nineteen hundred and forty-six, the vacancy shall, in lieu of being filled in the manner specified in the said section forty, be filled by the co-option of a Commissioner by all the remaining Commissioners.

(3) A Commissioner co-opted in pursuance of this Article shall be deemed for all purposes to be a Commissioner elected by the class of electors which elected, or is deemed to have elected, his predecessor. [431]

3.—(1) This Order may be cited as the Blyth Harbour Commissioners (Temporary Provisions) Order, 1942.

(2) In this Order the expression “the elected Commissioners” means such of the Blyth Harbour Commissioners as are elected by coal owners, ship-owners and traders.

(3) The Interpretation Act, 1889, applies for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

(4) The Blyth Harbour Commissioners (Temporary Provisions) Order, 1940, is hereby revoked as from the eleventh day of February, nineteen hundred and forty-three. [432]

* * * * *

HIGHWAYS

See, also, ACTIONS BY AND AGAINST LOCAL AUTHORITIES.

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ORDERS, CIRCULARS AND MEMORANDA

ORDER IN COUNCIL . . . ADDING REGULATION . . . 59A TO THE DEFENCE (GENERAL) REGULATIONS, 1939

S. R. & O., 1942, No. 801

April 30, 1942

* * * *

7. After Regulation fifty-nine of the principal Regulations there shall be inserted the following Regulation :—

“ 59A.—(1) If, as respects any area, the Secretary of State is satisfied, after consultation with any joint industrial council or other similar body which appears to him to be substantially representative of the employers and workmen concerned, that it is expedient for any of the purposes specified in subsection (1) of section one of the Emergency Powers (Defence) Act, 1939, so to do, he may by order make provision for enabling the whole or any part of the wages payable in that area by county councils to persons employed by those councils in their capacity of highway authority to be paid, notwithstanding anything in the Truck Acts, 1831 to 1940, by means of cheques ; and any such order may be made subject to such conditions as the Secretary of State thinks fit.

(2) Any order under this Regulation may further provide for securing that no person shall, except in such cases, if any, as may be specified therein, be entitled to require payment otherwise than by cheque of any wages authorised by the order to be so paid.” [433]

* * * *

THE LONDON-BRISTOL TRUNK ROAD (MAIDENHEAD BY-PASS) AMENDMENT ORDER, 1942

S. R. & O., 1942, No. 72

January 15, 1942

Whereas under the powers conferred upon him by subsection (3) of section 1 of the Trunk Roads Act, 1936, the Minister of Transport on the 6th

day of September, 1937, made The London-Bristol Trunk Road (Maidenhead By-Pass) Order, 1937 (hereinafter called "the Principal Order").

And whereas it is expedient that the Principal Order should be varied in the manner hereinafter appearing.

And whereas the Minister of Transport served upon the Councils of the Counties of Berks and Buckingham (hereinafter called "the Councils") notice of his intention to make an Order varying the Principal Order and considered the representations made by the Councils.

And whereas by the Ministers of the Crown (Minister of War Transport) Order, 1941, all functions exercisable by the Minister of Transport have been transferred to the Minister of War Transport (hereinafter called "the Minister").

Now therefore under and by virtue of the powers conferred upon him by sub-section (3) of section 1 and sub-section (2) of section 13 of the Trunk Roads Act, 1936, the Minister hereby orders as follows :—

1. The Principal Order shall have effect as if for the words in Part 1 of the Schedule thereto from "Map numbered S.T.A. 1/1-2" to "Robert H. Tolerton" there were substituted the words "plan numbered S.T.A. 1/1-2B, marked 'the London-Bristol Trunk Road (Maidenhead By-Pass) Amendment Order, 1942,' and signed for the purposes of identification by E. B. Hart." [434]

2. The Interpretation Act, 1889, applies for the purpose of the interpretation of this Order as it applies for the purpose of the interpretation of an Act of Parliament. [435]

3. This Order may be cited as "The London-Bristol Trunk Road (Maidenhead By-Pass) Amendment Order, 1942." [436]

* * * * *

THE LONDON-BRISTOL TRUNK ROAD (SLOUGH BY-PASS) ORDER, 1942

S. R. & O., 1942, No. 189

January 29, 1942

Whereas the Minister of Transport was satisfied that it was expedient to construct a new road to by-pass Slough in the County of Buckingham between the Great West Road and Twyford By-Pass with a view to superseding by the creation of a new route for through traffic that part of the London-Bristol Trunk Road (hereinafter called "the existing Trunk Road") which is specified in Part II of the Schedule hereto.

And whereas the Minister of Transport served upon the Council of the County of Buckingham (hereinafter called "the Council") notice of his intention to make this Order and held a local inquiry.

And whereas by the Ministers of the Crown (Minister of War Transport) Order, 1941, all functions exercisable by the Minister of Transport have been transferred to the Minister of War Transport (hereinafter called "the Minister").

And whereas the Minister has considered the representations made by the Council and is satisfied that the Order should be made.

Now, therefore, under and by virtue of his powers under subsection (3) of section 1 of the Trunk Roads Act, 1936, and of all other powers enabling him in that behalf the Minister hereby orders as follows :—

1. Upon the date of this Order the route specified in Part I of the said Schedule shall become a trunk road to supersede that part of the existing Trunk Road specified in Part II of the said Schedule. [437]

2. Upon the first day of April next following the date on which the Minister serves upon the Council notice that the said route is ready to be used for the purposes of through traffic that part of the existing Trunk Road thereby superseded shall become a county road. [438]

3. The Interpretation Act, 1889, applies for the purpose of the interpretation of this Order as it applies for the purpose of the interpretation of an Act of Parliament. [439]

4. This Order may be cited as "The London-Bristol Trunk Road (Slough By-Pass) Order, 1942". [440]

THE SCHEDULE

PART I

The New Route

The route from a point approximately 590 yards east of the junction of the existing Trunk Road with Sutton Lane, westwards, north-westwards and then westwards to a point approximately 500 yards east of the junction of the existing Trunk Road with Huntercombe Lane, more particularly delineated and coloured red on the plan numbered S.T.A. 1/1—372A marked "The London—Bristol Trunk Road (Slough By-Pass) Order, 1942."

The said plan is signed for the purposes of identification by E. B. Hart, and copies thereof have been deposited at the offices of the Ministry of War Transport, Berkeley Square House, Berkeley Square, London, W.1, and at the offices of the Council, County Offices, Aylesbury.

PART II

Part of the existing Trunk Road to be superseded

That part of the existing Trunk Road delineated and coloured green on the plan aforesaid. [441]

* * * *

THE LONDON-EDINBURGH-THURSO TRUNK ROAD (COLSTERWORTH DIVERSION) ORDER, 1942

S. R. & O., 1942, No. 853

May 5, 1942

Whereas the Minister of Transport was satisfied that it was expedient to construct a new road at Colsterworth in the County of Lincoln (Parts of Kesteven) between Stamford and Grantham with a view to superseding by the creation of a new route for through traffic that part of the London-Edinburgh-Thurso Trunk Road (hereinafter called "the existing Trunk Road") which is specified in Part II of the Schedule hereto.

And whereas the Minister of Transport served upon the Council of the County of Lincoln (Parts of Kesteven) (hereinafter called "the Council") notice of his intention to make this Order.

And whereas by the Ministers of the Crown (Minister of War Transport) Order, 1941, all functions exercisable by the Minister of Transport have been transferred to the Minister of War Transport (hereinafter called "the Minister").

And whereas the Minister has considered the representations made by the Council and is satisfied that the Order should be made.

Now, therefore, under and by virtue of his powers under sub-section (3) of Section 1 of the Trunk Roads Act, 1936, and of all other powers enabling him in that behalf the Minister hereby orders as follows :—

1. Upon the date of this Order the route specified in Part I of the said Schedule shall become a trunk road, to supersede that part of the existing Trunk Road specified in Part II of the said Schedule. [442]

2. Upon the first day of April next following the date on which the Minister serves upon the Council notice that the said route is ready to be used for the purposes of through traffic that part of the existing Trunk Road thereby superseded shall become a county road. [443]

3. The Interpretation Act, 1889, applies for the purpose of the interpretation of this Order as it applies for the purpose of the interpretation of an Act of Parliament. [444]

4. This Order may be cited as "The London-Edinburgh-Thurso Trunk Road (Colsterworth Diversion) Order, 1942." [445]

THE SCHEDULE

PART I

The New Route

The route from a point approximately 700 yards northwest of the junction of the existing Trunk Road with the road leading to Twyford northwestwards for a length of approximately 930 yards, more particularly delineated and coloured red on the plan numbered S.T.A. 1/1-323 marked "The London-Edinburgh-Thurso Trunk Road (Colsterworth Diversion) Order, 1942".

The said plan is signed for the purposes of identification by E. B. Hart and copies thereof have been deposited at the offices of the Ministry of War Transport, Berkeley Square House, Berkeley Square, London, W.1, and at the offices of the Council at County Offices, Sleaford.

PART II

Part of the existing Trunk Road to be superseded

That part of the existing Trunk Road delineated and coloured green on the plan aforesaid. [446]

* * * *

THE WEST RIDING OF YORKSHIRE (COUNTY ROADS CESSER) ORDER, 1942

S. R. & O., 1942, No. 465

March 13, 1942

Whereas the County Council of the West Riding of Yorkshire being, within the meaning of the Highways and Locomotives (Amendment) Act, 1878 (hereinafter referred to as "the Act"), the County Authority of the Administrative County of the West Riding of Yorkshire, made application to the Minister of Transport for the issue of an Order declaring that the road known as Rock Hill and Holywell Lane, in the Urban District of Castleford (hereinafter referred to as "the road") and which is a County Road within the meaning of the Act, as amended by the Local Government Act, 1929, shall cease to be a County Road and shall become an ordinary highway;

And whereas by the Ministers of the Crown (Minister of War Transport) Order, 1941, all functions exercisable by the Minister of Transport have

been transferred to the Minister of War Transport (hereinafter referred to as "the Minister");

And whereas the Minister, being of opinion that there was probable cause for the said application, caused the road to be inspected by one of his Inspectors and, report having been made thereon, the Minister is satisfied that the road should cease to be a County Road and should become an ordinary highway;

Now, therefore, the Minister, in pursuance of the powers given to him in that behalf, hereby orders and declares as follows:—

1. The road shall cease to be a County Road and shall, subject to the provisions of the Act, as amended as aforesaid, become an ordinary highway. [447]

2. The Interpretation Act, 1889, applies for the purpose of the interpretation of this Order as it applies for the purpose of the interpretation of an Act of Parliament. [448]

3. This Order may be cited as "The West Riding of Yorkshire (County Roads Cesser) Order, 1942", and shall come into operation on the date hereof. [449]

* * * * *

THE LANCASHIRE (COUNTY ROADS CESSER) ORDER, 1942

S. R. & O., 1942, No. 671

April 9, 1942

Whereas the County Council of Lancashire being, within the meaning of the Highways and Locomotives (Amendment) Act, 1878 (hereinafter referred to as "the Act"), the County Authority of the Administrative County of Lancaster, made application to the Minister of Transport for the issue of an Order declaring that the roads which are more particularly described in the Schedule hereto (hereinafter referred to as "the roads") and which are County Roads within the meaning of the Act, as amended by the Local Government Act, 1929, shall cease to be County Roads and shall become ordinary highways;

And whereas by the Ministers of the Crown (Minister of War Transport) Order, 1941, all functions exercisable by the Minister of Transport have been transferred to the Minister of War Transport (hereinafter referred to as "the Minister");

And whereas the Minister, being of opinion that there was probable cause for the said application, caused the roads to be inspected by one of his Inspectors and, report having been made thereon, the Minister is satisfied that the roads should cease to be County Roads and should become ordinary highways;

Now, therefore, the Minister, in pursuance of the powers given to him in that behalf, hereby orders and declares as follows:—

1. The roads shall cease to be County Roads and shall, subject to the provisions of the Act, as amended as aforesaid, become ordinary highways. [450]

2. The Interpretation Act, 1889, applies for the purpose of the interpretation of this Order as it applies for the purpose of the interpretation of an Act of Parliament. [451]

3. This Order may be cited as "The Lancashire (County Roads Cesser) Order, 1942", and shall come into operation on the date hereof. [452]

SCHEDULE

*Description of Roads**Borough of Accrington.*

Peel Street.

Borough of Leigh.

Brown Street from its junction with Bradshawgate (A.572) to its junction with Chapel Street; and Chapel Street from its junction with Brown Street to its junction with Queen Street, A.572.

Borough of Widnes.

That length of the road known as Appleton Village and Deacon Road which extends from Birchfield Road (A.568) to Leigh Avenue (B.5178).

Urban District of Horwich.

Walker Fold Road from the Bolton County Borough boundary at Dakin's Brook to the Bolton County Borough boundary at Dean Brook.

Urban District of Turton.

Scout Road from the Bolton County Borough boundary to its junction with Belmont Road (A.675).

Wellington Road.

Hough Lane from the Bolton County Borough boundary near Eagley Mills to its junction with Darwen Road (A.6059).

Urban District of Farnworth.

Gladstone Road.

Urban District of Prestwich.

Kersal Vale.

Urban District of Worsley.

Walkden Road from its junction with Manchester Road (A.6) to its junction with Memorial Road (A.575).

Urban District of Urmston.

Barton Road from its junction with route A.575 at Barton Bridge to its junction with Redcliffe Road (A.575) at White House.

Urban District of Carnforth.

That length of Warton Road and Market Street which extends from the entrance to the Railway Goods Station to its junction with route A.6.

Urban District of Poulton-le-Fylde.

Blackpool Old Road from its junction with route B.5268 to its junction with Poulton Market Place, B.5267.

Urban District of Formby.

Formby Old Road North from the Southport County Borough boundary to its junction with the Formby By-Pass Road and route B.5424 near South Moss Farm.
[453]

* * * *

THE WARWICKSHIRE (COUNTY ROADS CESSER) ORDER, 1942

S. R. & O., 1942, No. 692

April 13, 1942

Whereas the County Council of Warwick being, within the meaning of the Highways and Locomotives (Amendment) Act, 1878 (hereinafter referred to as "the Act"), the County Authority of the Administrative County of Warwick, made application to the Minister of War Transport (hereinafter referred to as "the Minister") for the issue of an Order declaring that the road which is more particularly described in the Schedule hereto (hereinafter referred to as "the road") and which is a County Road within the meaning

of the Act, as amended by the Local Government Act, 1929, shall cease to be a County Road and shall become an ordinary highway ;

And whereas the Minister, being of opinion that there was probable cause for the said application, caused the road to be inspected by one of his Inspectors and, report having been made thereon, the Minister is satisfied that the road should cease to be a County Road and should become an ordinary highway ;

Now, therefore, the Minister, in pursuance of the powers given to him in that behalf, hereby orders and declares as follows :—

1. The road shall cease to be a County Road and shall, subject to the provisions of the Act, as amended as aforesaid, become an ordinary highway. [454]

2. The Interpretation Act, 1889, applies for the purpose of the interpretation of this Order as it applies for the purpose of the interpretation of an Act of Parliament. [455]

3. This Order may be cited as “ The Warwickshire (County Roads Cesser) Order, 1942 ”, and shall come into operation on the date hereof. [456]

SCHEDULE

Description of Road

Borough of Nuneaton.

So much of Attleborough Road as lies between Bull Street (B.4112) and Route B.4114. [457]

* * * *

THE BAKEWELL (COUNTY ROADS DECLARATION) ORDER, 1942

S. R. & O., 1942, No. 2657

December 14, 1942

Whereas the Bakewell Urban District Council (hereinafter referred to as “ the Urban District Council ”) made application under section 15 of the Highways and Locomotives (Amendment) Act, 1878, as extended by subsection (1) of section 37 of the Local Government Act, 1929, to the County Council of Derbyshire (hereinafter referred to as “ the Council ”), for an Order declaring that the length of road specified in the Schedule hereto (hereinafter referred to as “ the road ”) should be declared to be a County road.

And whereas the Council refused to make such Order as aforesaid.

And whereas the Urban District Council appealed to the Minister of War Transport (hereinafter referred to as “ the Minister ”).

And whereas the Minister, after considering the representations made to him by the Council, is of opinion that such an Order ought to be made.

Now, therefore, the Minister, in pursuance of his powers under section 37 of the Local Government Act, 1929, and of all other powers him thereunto enabling hereby declares and orders as follows :—

1. The road shall be a County road. [458]

2. The Interpretation Act, 1889, applies for the purpose of the interpretation of this Order as it applies for the purpose of the interpretation of an Act of Parliament. [459]

3. This Order may be cited as “ The Bakewell (County Roads Declaration) Order, 1942,” and shall come into operation on the date hereof. [460]

SCHEDULE

Length of Road	Mileage
Monyash Road, Bakewell, from its junction with Over Haddon Road to the Western Boundary of the Bakewell Urban District at Green Lane	1.74

* * * *

[461]

THE COUNTY ROADMEN (PAYMENT OF WAGES) ORDER, 1942

S. R. & O., 1942, No. 1644

August 13, 1942

Whereas, as respects the administrative counties specified in the Schedule hereto, I am satisfied, after consultation with bodies which appear to me to be substantially representative of the employers and workmen hereinafter mentioned, that it is expedient for the efficient prosecution of the war and for maintaining supplies and services essential to the life of the community so to do :

Now, therefore, in pursuance of the powers conferred upon me by Regulation 59A of the Defence (General) Regulations, 1939, I hereby order as follows :—

1. The council of every administrative county specified in the Schedule hereto is hereby enabled to pay by means of cheques the whole or any part of the wages payable to any workman being a roadman employed by the council in their capacity of highway authority. [462]

2. No roadman to whom this Order applies shall be entitled to require payment of his wages or of any part thereof otherwise than by a cheque drawn on the council's bankers and signed by or on behalf of the appropriate officer of the council. [463]

3. In this Order—

the expression "roadman" includes every workman employed wholly upon or in connection with a county road, with the exception of any workman employed upon or in connection with a county road in any borough or urban district by the council of that borough or urban district and paid by such council; and

the expression "county road" has the same meaning as in sub-section (1) of section 29 of the Local Government Act, 1929. [464]

4. This Order may be cited as the County Roadmen (Payment of Wages) Order, 1942. [465]

SCHEDULE

ADMINISTRATIVE COUNTIES

(a) *England*

Name of Administrative County.
Cambridge.
Chester.
Cornwall.
Cumberland.

Name of Administrative County.
Devon.
Dorset.
Durham.
Gloucester.

Name of Administrative County.
 Huntingdon.
 Isle of Ely.
 Kent excluding the Borough of
 Maidstone.
 Lancaster.
 Lincoln, Parts of Holland.
 Lincoln, Parts of Kesteven.
 Lincoln, Parts of Lindsey.
 Norfolk.
 Northumberland.

Name of Administrative County.
 Rutland.
 Soke of Peterborough.
 Somerset.
 Suffolk, East.
 Suffolk, West.
 Westmorland.
 Wilts.
 York, East Riding.
 York, North Riding.
 York, West Riding.

(b) *Wales*

Name of Administrative County.
 Anglesey.
 Brecknock.
 Caernarvon.
 Cardigan.
 Carmarthen.
 Denbigh.

Name of Administrative County.
 Flint.
 Merioneth.
 Montgomery.
 Pembroke.
 Radnor.

[466]

* * * * *

CASES

Town and Country Planning—Ribbon development—Injurious affection of land—Claim for compensation—Date at which compensation should be assessed—Date of claim—Restriction of Ribbon Development Act, 1935 (c. 47), s. 9.

In July, 1937, the claimant applied to the highway authority for consent to construct a means of access to his property from the main road. The consent was given subject to conditions which were impossible for the claimant to fulfil. In June, 1939, he claimed compensation for injurious affection to his land under the Restriction of Ribbon Development Act, 1935, s. 9. On Mar. 17, 1941, the highway authority withdrew the restrictions. The question arose whether the material date for the assessment of compensation was the date of the claim or the date of the arbitration :—

Held : the compensation was to be assessed as at the date when the claim was made ; but, in taking into account the effect of the withdrawal of the restrictions, the arbitrator was entitled to have regard to the fact that war had then broken out and was likely to last for some considerable time.—*HUCKLE v. LOWESTOFT CORPN.*, [1943] 1 K. B. 59 ; [1942] 2 All E. R. 688 ; 59 T. L. R. 44, D. C. [467]

Highways—Obstructions—Lighting of obstruction—Barrier placed across road on account of bomb damage—Towns Improvement Clauses Act, 1847 (c. 34), ss. 78, 81, 83—Public Health Act, 1875 (c. 55), ss. 145, 160.

A local authority erected a barrier across a highway near a crater made by a bomb. Hurricane lamps were placed upon the barrier, but the lights were extinguished by a strong wind. The man whose duty it was to attend to the lamps failed to visit them on the night in question. Respondent, who was riding a bicycle along the street, received injuries through colliding with the barrier. The local authority contended that the barrier was erected without negligence and that they had not been negligent in leaving it unlighted :—

Held : the appellants, having placed the obstruction in the highway, were under a duty to keep it lighted. There was evidence of negligence for

which they were in law responsible, and the respondent was entitled to recover damages in respect of the injuries received.—*FOSTER v. GILLINGHAM CORPN.*, [1942] 1 All E. R. 304 ; 111 L. J. K. B. 364 ; 106 J. P. 131 ; 40 L. G. R. 115, C. A. [468]

Highways—Obstructions—Entrance to air-raid shelter through opening in pavement protected by flap—Local authority lighting sign as warning of danger—Self-imposed duty to continue to light sign.

The defendants, the lighting and highway authority for the City of Sheffield, constructed an air-raid shelter in a basement. The entrance to this shelter was formed by making a hole in the pavement, from which a stairway led to the basement. This hole was covered by a flap which when closed was level with the pavement. When open the hole in the pavement was protected by a light arm kept in position by a spring but which was not of sufficient strength to prevent a pedestrian who came upon it suddenly in the dark from falling into the hole. The defendants had provided an illuminated sign above the entrance to this shelter and had lighted it every night. On Dec. 23, 1940, at about 6.35 a.m., while it was still dark, the plaintiff approached this air-raid shelter on his way to work. The illuminated sign was not then lighted and no explanation of the failure to illuminate it was given by the defendants, nor did they give any evidence that they had taken steps to ensure that this sign was kept illuminated or that the failure to illuminate it would be brought to their notice. The plaintiff, misled by the absence of the light as to his exact position, fell into the hole caused by the entrance to the shelter, which was then open. It was contended for the defendants that the decision in *Fox v. Newcastle-upon-Tyne Corpn.* covered the present case and showed that they were under no liability to the plaintiff:—

Held: (i) in this case the defendants had imposed upon themselves a duty to illuminate the sign placed above this danger to pedestrians in the pavement and the failure to do so amounted to negligence on their part and they were liable to the plaintiff in damages.

(ii) In constructing the entrance to this air-raid shelter in the form in which it was constructed the local authority were exercising a general statutory power without reasonable care, since this entrance could have been constructed in such a way as not to be a danger to the public. They were, therefore, on this ground also, liable to the plaintiff.—*KNIGHT v. SHEFFIELD CORPN.*, [1942] 2 All E. R. 411 ; 167 L. T. 203 ; 106 J. P. 197 ; 86 Sol. Jo. 311. [469]

HOLIDAYS

ORDERS, CIRCULARS AND MEMORANDA :—

Defence (General) Regulations, Regulation 58AB amended

PAGE

— 187

ORDERS, CIRCULARS AND MEMORANDA

ORDER IN COUNCIL AMENDING REGULATION . . . 58AB ... OF ... THE DEFENCE (GENERAL) REGULATIONS, 1939

S. R. & O., 1942, No. 961

May 22, 1942

* * * * *

(2) Sub-paragraph (b) of, and the proviso to, paragraph (1) and the proviso to paragraph (2) of Regulation fifty-eight AB of the

principal Regulations are hereby revoked ; and in sub-paragraph (b) of paragraph (3) of that Regulation for the word " references " there shall be substituted, in the first place where it occurs, the word " reference " and, in the second place where it occurs, the words " a reference ". [470]

* * * * *

HOSPITALS

ORDERS, CIRCULARS AND MEMORANDA :—	PAGE	CASES :—	PAGE
South London Hospital for Women and Children (Relaxation of Limitation) Order, 1942	188	Gold v. Essex County Council, [1942] 2 All E. R. 237, C. A.	189
		Middlesex County Council v. Kiverstein, [1942] 1 All E. R. 596, C. A.	189

ORDERS, CIRCULARS AND MEMORANDA

THE SOUTH LONDON HOSPITAL FOR WOMEN AND CHILDREN (RELAXATION OF LIMITATION) ORDER, 1942

S. R. & O., 1942, No. 279

February 12, 1942

103,329

The Minister of Health in exercise of the powers conferred on him by Regulation 32 of the Defence (General) Regulations, 1939, and of all other powers in that behalf hereby orders as follows :—

1. This order may be cited as the South London Hospital for Women and Children (Relaxation of Limitation) Order, 1942, and the South London Hospital for Women and Children (Relaxation of Limitation) Order, 1940, and this order may be cited together as the South London Hospital for Women and Children (Relaxation of Limitation) Orders, 1940 and 1942. [471]

2.—(1) The South London Hospital for Women and Children (Relaxation of Limitation) Order, 1940, shall be amended by inserting in the first recital after the word " treatment " the words " by qualified women " and in the second recital after the word " children " the words " and the treatment of persons by men ".

(2) The following article shall be substituted for article 2 of the said order :—

" 2. For the purposes of the said Regulation 32 any limitations as to the persons for whom treatment may be provided at the hospital or as to the persons by whom treatment may be given therein which by, or by virtue of, any Act or other instrument determining their functions are imposed on the persons having the management of the hospital are hereby relaxed so far as is necessary to permit the treatment in the hospital of male persons other than children and the treatment therein of persons by men." [472]

* * * * *

CASES

Medicine—Liability of hospital—Professional duties—Negligence of radiographer—Insufficient screening—Public Health Act, 1936 (c. 49), ss. 181, 184.

The infant plaintiff was treated by a radiographer in the employ of the respondents at one of their county hospitals. By reason of his failure to provide adequate screening material in giving Grenz-ray treatment, the infant plaintiff suffered injury to her face. It was proved that the radiographer was fully competent to administer the treatment given to the infant plaintiff :—

Held : (i) as the radiographer was under a contract of service with the respondents, they were liable for his negligence under the doctrine of *respondere superior*.

(ii) If a local authority exercises its powers under the Public Health Act, 1936, ss. 181, 184, the obligation undertaken is an obligation to treat and the authority is liable if the persons employed by it to perform the obligation on its behalf act without due care.

(iii) Damages should be assessed on the basis of an immediate award and not on the basis of an award at a future date after an assumed accumulation of interest has taken place.

Decision of TUCKER, J. ([1942] 1 All E. R. 326), *reversed*.—GOLD v. ESSEX COUNTY COUNCIL, [1942] 2 K. B. 293 ; [1942] 2 All E. R. 237 ; 167 L. T. 166 ; 106 J. P. 242 ; 58 T. L. R. 357 ; 86 Sol. Jo. 295 ; 40 L. G. R. 249, C. A. [473]

Public Health—Hospital treatment—Recovery of expenses—Claim against deceased's estate—Right of action in contract against deceased's husband—"Expenses not recoverable from any other source"—Public Health Act, 1936 (c. 49), s. 184 (1).

A woman was admitted to a hospital maintained by the county council and remained there as a patient until her death. Under the Public Health Act, 1936, s. 184 (1), a county council is under a duty to recover from a patient or his estate expenses of maintenance in hospital, "not being expenses recoverable from any other source." In answer to a claim against the deceased's estate her executor contended that the expenses could be recovered in contract against her husband, and that, therefore, there was no right of action under the subsection :—

Held : the words of limitation in the subsection did not prevent the county council from recovering from the deceased's estate the cost of her maintenance.—MIDDLESEX COUNTY COUNCIL v. KIVERSTEIN, [1942] 2 K. B. 96 ; [1942] 1 All E. R. 596 ; 111 L. J. K. B. 623 ; 167 L. T. 251 ; 106 J. P. 175 ; 58 T. L. R. 238 ; 86 Sol. Jo. 139, C. A. [474]

HOUSING

STATUTES :—	PAGE	ORDERS, CIRCULARS AND MEMORANDA :—	PAGE
War Damage (Amendment) Act, 1942, Sched. I, para. 14 (see p. 5, <i>ante</i>).		Housing Acts (Review of Contributions) Order, 1942 — — —	190
Housing (Rural Workers) Act, 1942	190	CASES :—	
		R. v. Snell, <i>Ex parte</i> St. Marylebone Borough Council, [1942] 1 All E. R. 612, D. C. — — —	192

STATUTES

THE HOUSING (RURAL WORKERS) ACT, 1942

(5 & 6 Geo. 6, c. 32)

An Act to extend the time within which applications for assistance under the Housing (Rural Workers) Act, 1926, may be received by local authorities. [475]
[6th August, 1942.]

1. Extension of time for applying for assistance under s. 2 of Housing (Rural Workers) Act, 1926.—(1) Subsection (2) of section two of the Housing (Rural Workers) Act, 1926 (which, as amended by subsequent enactments and in particular by section one of the Housing (Rural Workers) Amendment Act, 1938, provides, amongst other things, that applications for assistance must be received before the thirtieth day of September, nineteen hundred and forty-two) shall have effect as if the thirtieth day of September, nineteen hundred and forty-five were therein substituted for the thirtieth day of September, nineteen hundred and forty-two, and section four of the Housing (Rural Workers) Act, 1926 (which relates to government contributions to expenses of local authorities under that Act) shall have effect accordingly. [476]

(2) Subject to the provisions of any amending scheme made after the passing of this Act by a local authority with the approval of the Minister, any reference in a scheme under the Housing (Rural Workers) Act, 1926, to any date in nineteen hundred and thirty-one, nineteen hundred and thirty-six, nineteen hundred and thirty-eight or nineteen hundred and forty-two as the date before which applications for assistance are to be received by the local authority shall be construed as a reference to the thirtieth day of September, nineteen hundred and forty-five. [477]

The provisions of ss. 2 and 4 of the Housing (Rural Workers) Act, 1926 (13 Statutes 1163, 1167) are extended for a further three years until September 30, 1945. These provisions had previously been extended by the Housing (Rural Workers) Amendment Act, 1938 (81 Statutes 579), to September 30, 1942.

2. Short title, citation and construction.—(1) This Act may be cited as the Housing (Rural Workers) Act, 1942.

(2) This Act shall, in its application to England, be construed as one with the Housing (Rural Workers) Acts, 1926 to 1938, and this Act and those Acts may be cited together as the Housing (Rural Workers) Acts, 1926 to 1942.

(3) This Act shall, in its application to Scotland, be construed as one with the Housing (Rural Workers) (Scotland) Acts, 1926 to 1938, and this Act and those Acts may be cited together as the Housing (Rural Workers) (Scotland) Acts, 1926 to 1942. [478]

The Housing (Rural Workers) Acts, 1926 to 1938, are enumerated in s. 12 (3) of the Housing (Rural Workers) Amendment Act, 1938 (81 Statutes 582).

ORDERS, CIRCULARS AND MEMORANDA

THE HOUSING ACTS (REVIEW OF CONTRIBUTIONS)
ORDER, 1942

S. R. & O., 1942, No. 1601

August 5, 1942

108,474

Whereas it is provided by section 109 of the Housing Act, 1936, as amended by section 5 of the Housing (Financial Provisions) Act, 1938, that

after the beginning of October, 1941, the Minister of Health (in this order called "the Minister") shall, in connection with contributions which he is required to make under section 1 or section 2 of the Housing (Financial Provisions) Act, 1938, take into consideration the amount of expenses likely to be incurred by local authorities, in the period of three years beginning with the next following first day of April, in connection with operations relevant to the question whether or not contributions are payable under that section, and also the amount of expenses already incurred by local authorities in connection with such operations, and shall, after consultation with such associations of local authorities as appear to the Minister to be concerned and with any local authority with whom consultation appears to him to be desirable, prepare with the approval of the Treasury, and lay before the Commons House of Parliament, a draft of an order providing, in relation to contributions under each of the said sections either—

(a) for the cesser of his obligation or power to undertake to make, or to make, contributions under that section, in the case of any houses which have not been rendered available until after a date to be specified in the order; or

(b) for the continuance thereof without alteration; or

(c) for the alteration of the amount of the contributions in the case aforesaid, or of the period for which they are to be payable, or of both;

and if a resolution approving the draft is passed by that House within one month from the date on which the draft is laid, the Minister shall make an order in the terms of the draft;

And whereas the Minister, after considering the matter aforesaid, and after consultation with the associations and authorities aforesaid, prepared with the approval of the Treasury the draft of this Order and laid it before that House, and within one month of the date on which the draft was laid a resolution approving the draft was passed by that House:

Now therefore the Minister, in pursuance of the power conferred on him by the Housing Acts, 1936 and 1938, and of all other powers enabling him in that behalf, hereby makes the following order:—

1. This order may be cited as the Housing Acts (Review of Contributions) Order, 1942. [479]

2. Any obligation or power of the Minister under section 1 or section 2 of the Housing (Financial Provisions) Act, 1938, to undertake to make, or to make, contributions in respect of housing accommodation, shall continue without alteration. [480]

* * * *

CASES

Public Health—Housing—Housing estate—Recovery of possession from tenant—Rent exceeding £20—Summary procedure before justices—Housing Act, 1936 (c. 51), ss. 83 (1), 156 (2).

A borough council was the owner of a number of flats erected by them under a housing scheme. The tenant of one of the flats being considered unsatisfactory, the council served a notice to quit and upon its expiration applied for an order for possession to a court of summary jurisdiction under the Small Tenements Recovery Act, 1838. The council required possession for the purpose of re-letting the flat to another member of the working classes. The Small Tenements Recovery Act, 1838, applies only to premises let at a rent not exceeding £20 per annum. The council contended, however, that, since in applying for possession they were exercising the power of management

of the property vested in them by the Housing Act, 1936, s. 83 (1), they were enabled by sect. 156 (2) of that Act to proceed under the Small Tenements Recovery Act, 1838, notwithstanding the fact that the yearly rent of the flat exceeded £20 :—

Held : the requiring of possession for the purpose of re-letting to another member of the working classes was an exercise of the power of management vested in the council by the Housing Act, 1936, s. 83 (1), and s. 156 (2) enabled the local authority to proceed summarily for the recovery of possession under the Small Tenements Recovery Act, 1838.—*R. v. SNELL, Ex p. St. MARYLBONE BOROUGH COUNCIL*, [1942] 2 K. B. 137; [1942] 1 All E. R. 612; 111 L. J. K. B. 530; 167 L. T. 13; 106 J. P. 160; 58 T. L. R. 236; 86 Sol. Jo. 161; 40 L. G. R. 153, D. C. [481]

INCOME TAX

See FINANCE.

LAND DRAINAGE

ORDERS, CIRCULARS AND MEMORANDA :—		PAGE	Orders made in 1942 under the Land Drainage Act, 1930 (summary)		PAGE
Drainage Authorities (Extension of Term of Office) Order, 1942	—	192	—	—	196

ORDERS, CIRCULARS AND MEMORANDA

THE DRAINAGE AUTHORITIES (EXTENSION OF TERM OF OFFICE) ORDER, 1942

S. R. & O., 1942, No. 2405

November 24, 1942

* * * * *

Whereas application has been made on behalf of the drainage authorities mentioned in the First Schedule to this Order, praying that His Majesty may be graciously pleased to make an Order in Council with respect to those authorities under section two of the Chartered and Other Bodies (Temporary Provisions) Act, 1939 :

Now, therefore, His Majesty, in exercise of the powers conferred on Him by the said section two and of all other powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :—

1.—(1) This Order may be cited as the Drainage Authorities (Extension of Term of Office) Order, 1942.

(2) This order shall have effect as from the 1st September, 1939.

(3) The Interpretation Act, 1889, applies for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

(4) This Order shall have effect in substitution for the Orders mentioned in the Second Schedule hereto so far as concerns the authorities mentioned in the First Schedule hereto; and the said Orders are hereby revoked so far as concerns the said authorities. [482]

2.—(1) In the case of any of the said authorities which is composed partly of elected members and partly of members appointed in some other way, this Order applies only to elected members, but for the purposes of this provision any member appointed (in whatever way) to fill a vacancy among the elected members shall be deemed to be an elected member.

(2) In the case of a member of any of [the said authorities whose term of office expired before the date of the making of this Order, this Order shall not have effect to extend that term of office if, before the said date, an election has been held to fill the vacancy. [483]

3. Subject to the provisions of Article 2 of this Order, the term of office of members of the said authorities shall, if due to expire on some date falling between the end of August, 1939, and the beginning of April, 1943, extend to the corresponding date in the year ending with the end of March, 1944, and the elections of new members shall be postponed accordingly. [484]

4. Where, in the case of an authority of whose elected members one third retire annually, the term of office of the members first due to retire is extended by Article 3 of this Order, the term of office of the other members shall be correspondingly extended. [485]

5. Where the enactments, orders and rules relating to any of the said authorities contain no provision for filling a casual vacancy, or provide for the holding of an election to fill a casual vacancy, any casual vacancy occurring before the first elections held after the date of the making of this Order shall (unless it occurred and was filled before that date) be filled by the appointment by the authority of a new member to hold office for the remainder of the term of office of the vacating member. [486]

6. Any provisions of the enactments, orders and rules relating to the said authorities which enable or require a member of the authority to resign or vacate his office before the expiration of his term of office shall apply in relation to the extended term of office of members of the authority, and any provisions thereof relating to elections shall, with any necessary modifications, apply to the postponed elections in like manner as they apply to elections not postponed. [487]

FIRST SCHEDULE

DRAINAGE AUTHORITIES AFFECTED

The Ainsty Internal Drainage Board.
The Airmyn Internal Drainage Board.
The Aldborough Internal Drainage Board.
The Alderton, Hollesley and Bawdsey Internal Drainage Board.
The Alford Drainage Board.
The Aller Moor Drainage Board.
The Althorpe Drainage Board.
The Appleton, Roebuck and Copmanthorpe Drainage Board.
The Armthorpe Internal Drainage Board.
The Ashfields Internal Drainage Board.
The Austwick Internal Drainage Board.
The Bedale Drainage Board.
The Bedfordshire First Internal Drainage Board.
The Beetham and Arnside Internal Drainage Board.
The Bellasize Drainage Board.
The Benwick Internal Drainage Board.
The Black Drain Drainage Board.
The Black Sluice Internal Drainage Board.
The Blundeston, Flixton and Oulton Drainage Board.
The Bourne and Thurlby Internal Drainage Board.
The Broadalls Four Hundred and Betty's Nose Drainage Board.

The Brunstock Beck Drainage Board.
The Burgh-by-Sands, Beaumont and Orton Drainage Board.
The Churchfield and Plawfield Internal Drainage Board.
The Cliffe Internal Drainage Board.
The Cod Beck Internal Drainage Board.
The Cowick Internal Drainage Board.
The Crowle District Drainage Board.
The Dearne and Dove Internal Drainage Board.
The Deeping Fen, Spalding and Pinchbeck Internal Drainage Board.
The Dempster Internal Drainage Board.
The Denge and Southbrooks Internal Drainage Board.
The Downham and Stow Bardolph Internal Drainage Board.
The Dunsforth Internal Drainage Board.
The East Derwent Internal Drainage Board.
The East Harling Internal Drainage Board.
The East of the Ouse, Polver and Nar Internal Drainage Board.
The Euximoor Internal Drainage Board.
The Everton Drainage Commission (that is, the Commissioner and Committee-men under the Everton, etc., Drainage Act, 1912).
The Fairham Brook Internal Drainage Board.
The Fromus, Alde and Thorpeness Internal Drainage Board.
The Gainsborough Internal Drainage Board.
The Glassmoor and Mereside Internal Drainage Board.
The Gordano Valley Internal Drainage Board.
The Gowdall Drainage Board.
The Greenoak Drainage Board.
The Halvergate Fleet Internal Drainage Board.
The Happisburgh to Winterton Internal Drainage Board.
The Hesketh Flood Defence Commissioners.
The Hessle and Anlaby Drainage Trust (that is, the Trustees under the Act 82 Geo. 3, c. cix.)
The Holland Elloe Internal Drainage Board.
The Houghton and Wyton Internal Drainage Board.
The Howden Drainage Board.
The Knottingley to Hensall Drainage Board.
The Ladden Brook Valley and Yate Internal Drainage Board.
The Laneham Internal Drainage Board.
The Langley Chedgrave and Toft Monks Marshes Drainage Board.
The Langport Drainage Board.
The Level of New Romney Internal Drainage Board.
The Limpenhoe and Reedham Drainage Board.
The Lotherland Drainage Board.
The Louth Drainage Board.
The Lower Aire Drainage Board.
The Lower Alde Internal Drainage Board.
The Lower Brue District Drainage Board.
The Lower Bure Internal Drainage Board.
The Lower Medway Internal Drainage Board.
The Lower Swale Internal Drainage Board.
The Lower Waveney Second Internal Drainage Board.
The Lower Waveney Third Internal Drainage Board.
The Lower Yare Second Internal Drainage Board.
The Lower Yare Third Internal Drainage Board.
The Lower Yare Fourth Internal Drainage Board.
The Lyth, Levens and Meathop Drainage Board.
The Magdalen Internal Drainage Board.
The Market Weighton Drainage Board.
The Marshland Smeeth and Fen Internal Drainage Board.
The Marston Moor Drainage Board.
The Mereside and Ramsey Mere Drainage Board.
The Messingham Internal Drainage Board.
The Middle Alde Internal Drainage Board.
The Middle Bure Internal Drainage Board.

The Minsmere Internal Drainage Board.
The Morden Carrs Drainage Board.
The Muckfleet and South Flegg Internal Drainage Board.
The Newark Internal Drainage Board.
The Newbiggin and Billingham Drainage Board.
The North Level (Sixth District) Internal Drainage Board.
The North Moor Drainage Board.
The North Somerset Internal Drainage Board.
The North Welland Internal Drainage Board.
The Oulton, Carlton Colville and Barnby Drainage Board.
The Ouseburn Internal Drainage Board.
The Pett Drainage Board.
The Pilling and Winmarleigh Drainage Board.
The Ramsey Upwood and Great Raveley Internal Drainage Board.
The Rawcliffe Drainage Board.
The River Blyth Internal Drainage Board.
The River Crimple Internal Drainage Board.
The River Crossens Drainage Board.
The River Deben (Lower) Internal Drainage Board.
The River Deben (Upper) Internal Drainage Board.
The River Foss Internal Drainage Board.
The River Gipping Drainage Board.
The River Ivel Internal Drainage Board.
The River Kyle Drainage Board.
The River Lugg Drainage Board.
The River Stour (Kent) Internal Drainage Board.
The River Tutt Internal Drainage Board.
The River Wensum Internal Drainage Board.
The River Wiske Internal Drainage Board.
The Romney Marsh Level Internal Drainage Board.
The Rother Drainage Board.
The Rye Internal Drainage Board.
The Salthouse and Kelling Internal Drainage Board.
The Sandown and Brading Drainage Board.
The Scunthorpe Internal Drainage Board.
The Selby Dam Drainage Commissioners.
The Skegness District Internal Drainage Board.
The Smallburgh Internal Drainage Board.
The Snaith Drainage Board.
The Snettisham Internal Drainage Board.
The Snow Sewer Drainage Board.
The South Axholme Drainage Board.
The South Gloucestershire Internal Drainage Board.
The South Holland Embankment Drainage Board.
The South Welland Internal Drainage Board.
The Southwell Internal Drainage Board.
The Stoke Ferry Internal Drainage Board.
The Sutton Bridge Internal Drainage Board.
The Sykehouse Drainage Board.
The Thornton Internal Drainage Board.
The Thorntree Drainage Board.
The Tickhill Drainage Board.
The Tween Bridge Internal Drainage Board.
The Upper Alde Internal Drainage Board.
The Upper Axe Internal Drainage Board.
The Upper Brue Internal Drainage Board.
The Upper Bure Drainage Board.
The Upper Medway Internal Drainage Board.
The Upper Ouse Internal Drainage Board.
The Upper Swale Internal Drainage Board.
The Upper Witham Internal Drainage Board.
The Upper Yare and Tas Internal Drainage Board.
The Walland Marsh Internal Drainage Board.

The Waveney Valley Drainage Board.
 The Went Internal Drainage Board.
 The West Axholme Drainage Board.
 The West Derwent Internal Drainage Board.
 The West Gloucestershire Internal Drainage Board.
 The West Haddlesey Internal Drainage Board.
 The West Mendip Internal Drainage Board.
 The West Moor Internal Drainage Board.
 The Westside Marshes Internal Drainage Board.
 The Whittlesey and Farcet Internal Drainage Board.
 The Wimblington Combined Internal Drainage Board.
 The Wingland Internal Drainage Board.
 The Winster Internal Drainage Board.
 The Witham First District Internal Drainage Board.
 The Witham Third District Internal Drainage Board.
 The Witham Fourth District Internal Drainage Board.
 The Witham Fifth District Internal Drainage Board.

[488]

SECOND SCHEDULE

ORDERS SUPERSEDED

The Drainage Authorities (Extension of Term of Office) Order, 1940.
 The Drainage Authorities (Extension of Term of Office) (No. 2) Order, 1940.
 The Drainage Authorities (Extension of Term of Office) (No. 3) Order, 1940.
 The Drainage Authorities (Extension of Term of Office) Order, 1941.
 The Drainage Authorities (Extension of Term of Office) (No. 2) Order, 1941.
 The Drainage Authorities (Extension of Term of Office) (No. 3) Order, 1941.

[489]

THE FOLLOWING ORDERS HAVE BEEN MADE UNDER THE LAND DRAINAGE ACT, 1930 :—

Order	No.	Date
River Ouse (Yorks) Catchment Board (Wistow Cawood and Selby Internal Drainage District) Order, 1942.	242	February 9.
East Norfolk Rivers (including the River Waveney) Catchment Board (Repps, Martham and Thurne Internal Drainage District) Order, 1942.	288	February 14.
River Welland Catchment Board (Crowland Common Old Enclosure Commissioners) Order, 1942.	332	February 23.
River Great Ouse Catchment Board (Feldale Internal Drainage District) Order, 1942.	344	February 26.
Northumberland Rivers Catchment Area Order, 1942 —	345	February 26.
River Ouse (Yorks) Catchment Board (Barmby on the Marsh Internal Drainage District) Order, 1942.	379	March 2.
Hampshire Rivers Catchment Area Order, 1942 — —	836	April 30.
Northumberland Rivers Catchment Board Constitution Order, 1942.	855	May 4.
Hampshire Rivers Catchment Board Constitution Order, 1942.	1,159	June 16.
River Trent Catchment Board (Whitewater Internal Drainage District) Order, 1942.	1,503	July 23.
River Ellen and Streams draining into Allonby Bay Catchment Area Order, 1942.	1,931	September 10.
River Trent Catchment Board (Alteration of Boundaries of Crowle District Drainage District) Order, 1942.	1,959	September 10.
River Wyre Catchment Area (Alteration of Boundaries) Order, 1942.	2,250	October 29.

LONDON

ORDERS, CIRCULARS AND MEMORANDA :—	PAGE	CASES :—	PAGE
London and Home Counties Traffic Advisory Committee (Extension of Term of Office) Order, 1942	197	Conservative Club v. Westminster Assessment Committee; R. v. London County J.J., <i>Ex p.</i> Westminster Assessment Committee, [1942] 2 All E. R. 196, D. C.	201
London Transport Stock (Amendment) Regulations, 1942	197		

ORDERS, CIRCULARS AND MEMORANDA

THE LONDON AND HOME COUNTIES TRAFFIC ADVISORY COMMITTEE (EXTENSION OF TERM OF OFFICE) ORDER, 1942

S. R. & O., 1942, No. 965

May 22, 1942

* * * * *

Whereas application has been made on behalf of the London and Home Counties Traffic Advisory Committee praying that His Majesty may be graciously pleased to make an Order in Council under section two of the Chartered and Other Bodies (Temporary Provisions) Act, 1939, with respect to that Committee :

Now, therefore, His Majesty, in pursuance of the powers conferred on Him by the said section two, and of all other powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :—

1. The term of office of the members of the London and Home Counties Traffic Advisory Committee, constituted under section one of the London Traffic Act, 1924, as amended by any subsequent enactment, who are holding office at the date of the making of this Order, shall be extended as if the periods for which they were respectively appointed did not expire until the expiration of the Chartered and Other Bodies (Temporary Provisions) Act, 1939. [490]

2.—(1) This Order may be cited as the London and Home Counties Traffic Advisory Committee (Extension of Term of Office) Order, 1942.

(2) The Interpretation Act, 1889, shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament. [491]

THE LONDON TRANSPORT STOCK (AMENDMENT) REGULATIONS, 1942

S. R. & O., 1942, No. 1717

August 28, 1942

Whereas in exercise of the powers conferred upon him by Sections 38 and 39 of the London Passenger Transport Act, 1933, and of all other powers enabling him in that behalf the Minister of Transport with approval of the Treasury made The London Transport Stock Regulations, 1933, and The London Transport Stock (Amendment) Regulations, 1939 (which first-

mentioned Regulations as modified by the said secondly-mentioned Regulations are hereinafter referred to as "the Principal Regulations") :

And whereas it is expedient that the provisions of the Principal Regulations should be modified and extended in the manner hereinafter appearing.

Now, therefore, the Minister of War Transport by virtue of the said powers and of The Ministers of the Crown (Minister of War Transport) Order, 1941, and with the approval of the Treasury hereby makes the following Regulations :—

1. These Regulations may be cited as "The London Transport Stock (Amendment) Regulations, 1942". [492]

2. Notwithstanding anything contained in the Principal Regulations, stock shall be held only in the form of stock transferable by instrument in writing. [493]

3. The following provisions shall have effect in relation to stock of any issue which was on the day immediately preceding the date of these Regulations held in the form of stock transferable only by entry in stock transfer books :—

(1) The appropriate Registrar shall forthwith remove such stock from the books relating to that issue of stock kept for stock transferable only by entry in stock transfer books and enter such stock in the books relating to that issue kept for stock transferable by instrument in writing :

(2) The appropriate Registrar shall issue to the holder of such stock a certificate as provided for by Regulation 31 of the Principal Regulations as amended by these Regulations :

(3) Any power of attorney which has been given for the transfer of such stock shall remain in force and effect in relation to such stock when it is transferable only by instrument in writing. [494]

4. Where the holder of stock agrees on redemption thereof to accept in substitution therefor or for any part thereof an amount of new stock the following provisions shall apply :—

(1) The holder shall deliver to the appropriate Registrar the certificate for the redeemed stock held by him and the Registrar shall issue a certificate of the new stock to the amount to which such holder is entitled.

(2) If it is shown to the satisfaction of the appropriate Registrar that any certificate for the redeemed stock is lost or destroyed he shall on receiving indemnity to his satisfaction issue a certificate for the new stock to the amount to which the holder would be entitled if he had delivered up the lost or destroyed certificate. [495]

5. Where the appropriate Registrar is unable for a period of one year to trace the holder of any redeemed stock, or where any stock is issuable or money is payable to a person who or whose committee cannot give an effectual receipt for the same, the Board may issue the stock or pay the money, as nearly as may be, in manner provided for payment of securities or money into Court by trustees under Section 63 of the Trustee Act, 1925, and that section shall apply with all necessary modifications to such stock or money. [496]

6. The Principal Regulations shall be amended as follows :—

Regulation 2.

(a) The definition of the expressions "inscribed stock" and "registered stock" shall be deleted.

(b) The words "or any subsequent Act" shall be added at the end of the definition of the expression "stock".

Regulation 4.

The words "or any subsequent Act" shall be added at the end of the Regulation.

Regulation 8.

The words "or any subsequent Act" shall be inserted after the words "the Act" in paragraph (2).

Regulation 9.

(a) The words "or any subsequent Act" shall be inserted after the words "the Act" in paragraph (1).

(b) The words "or any subsequent Act" shall be inserted after the words "the Act" wherever those words occur in paragraph (3) of the Regulation.

Regulation 11.

The words "or any subsequent Act" shall be inserted after the words "the Act".

Regulation 12.

This Regulation shall be deleted and the following substituted :—

12. The interest on stock of any issue entered in the register relating to stock of that issue in the name of a deceased person shall be payable to his personal representative, but neither the Board nor any Registrar to be appointed as hereinafter provided shall be required to pay any such interest until there has been produced to the appropriate Registrar evidence which is by law sufficient of probate of the will, or letters of administration of the estate, or confirmation as executor, of the deceased holder having been granted.

Regulation 14.

Paragraph (1) of this Regulation shall be deleted and the following substituted :—

(1) Interest on stock shall be paid by means of warrants sent through the post. Such warrants shall be sent to the registered address of the holder (or, in the case of joint holders, to the registered address of that one of them whose name stands first on the register in respect of the stock in question), or to such other person and at such other address as the holder (or, in the case of joint holders, all the holders) may direct in writing to the appropriate Registrar.

Regulation 15.

The words "or any subsequent Act" shall be inserted after the words "the Act".

Regulation 29.

This Regulation shall be deleted.

Regulation 30.

The words "separate books shall be kept for inscribed stock and for registered stock" shall be deleted.

Regulation 31.

This Regulation shall be deleted and the following substituted :—

31.—(1) The appropriate Registrar shall issue to the holder of stock a certificate of the proprietorship of such stock, and such

certificate shall be *prima facie* evidence of the title of the person named therein.

(2) In the case of stock held jointly by several persons the Registrar shall not be bound to issue more than one certificate therefor, and delivery of a certificate to one of several joint holders shall be sufficient delivery to all.

(3) A certificate of the proprietorship of stock may be issued to any person entitled thereto by delivering it by post or otherwise either to him or to any person who satisfies the appropriate Registrar that he is authorised to receive it on behalf of the person entitled thereto.

(4) Where the appropriate Registrar is the Bank of England the certificate of proprietorship shall bear a facsimile signature of the Chief Accountant of the Bank of England.

Regulation 33.

This Regulation shall be deleted.

Regulation 34.

The word "Registered" shall be deleted.

Regulation 36.

This Regulation shall be deleted and the following substituted :—

36.—(1) An amount of stock of any issue entered in the register relating to stock of that issue in the name of a deceased person shall be transferable by his personal representative; but, in a case in which there are two or more personal representatives, the appropriate Registrar may decline to register the transfer unless the instrument of transfer is executed by all the representatives.

(2) The production to the appropriate Registrar of any document which is by law sufficient evidence of probate of the will, or letters of administration of the estate, or confirmation as executor, of a deceased holder having been granted to some person shall be accepted by that Registrar as sufficient evidence of the grant.

(3) Where two or more persons are registered as holders of any stock those holders shall be deemed to be joint holders with right of survivorship between them.

Regulation 43.

The words "or confirmation as executor" shall be inserted after the words "letters of administration". [497]

7. References in the Principal Regulations to "the Regulations" shall be construed as references to those Regulations as modified and extended by these Regulations. [498]

8. The Interpretation Act, 1889, shall apply for the purpose of the interpretation of these Regulations in like manner as it applies for the purpose of the interpretation of an Act of Parliament. [499]

* * * * *

CASES

Rates and Rating—Metropolis—Reduction in value of club premises due to war conditions—"Cause"—Supplemental list—Valuation (Metropolis) Act, 1869 (c. 67), ss. 46, 47—Rating and Valuation (Postponement of Valuations) Act, 1940 (c. 12), s. 1 (2) (b).

At the quinquennial valuation made in April, 1936, the gross and rateable values of the Conservative Club premises in the rating area of Westminster

were fixed at £8,500 and £7,080 respectively. After the outbreak of hostilities the club made a requisition to be inserted in a provisional list at reduced values. The authority inserted the premises in a provisional list at the existing values. An objection by the club was rejected by the assessment committee. The premises were not included in the supplemental valuation list deposited by the Rating Authority on July 15, 1940, under the Rating and Valuation (Postponement of Valuations) Act, 1940. The club again objected and claimed that the values should be £5,000 gross and £4,163 rateable values. The assessment Committee reduced the assessments to £6,800 gross value and £5,663 rateable value, and the club then applied to quarter sessions. The General Quarter Sessions for the county of London decided that the war and the conditions arising out of it, including the black-out were a "cause" and that the reduction in value was peculiar to the premises in question and not generally applicable to all hereditaments or substantially all hereditaments in the area. They reduced the assessments to £5,000 gross value and £4,163 rateable value :—

Held : it was not necessary to determine whether the war conditions were a "cause" within the Valuation (Metropolis) Act, 1869, s. 47. There was evidence to justify the finding of quarter sessions that the reduction in value of the premises was not a reduction generally applicable to all or substantially all club premises within the area in question and the reduction in the values was properly allowed under the Rating and Valuation (Postponement of Valuations) Act, 1940, s. 1 (2).—*CONSERVATIVE CLUB v. WESTMINSTER ASSESSMENT COMMITTEE* ; *R. v. LONDON COUNTY JJ.*, *Ex p. WESTMINSTER ASSESSMENT COMMITTEE*, [1942] 2 All E. R. 196 ; 86 Sol. Jo. 322 ; 40 L. G. R. 224, D. C. [500]

MARKETS

CASES :—

Brackenhorough v. Spalding Urban District Council, [1942] 1 All E. R. 34, H. L. — PAGE 202

CASES

Animals—Escape on to highway—Escape from pen provided by local authority at cattle market for cattle waiting to be certified for subsidy—Liability of local authority as owner of market—Livestock Industry Act, 1937 (c. 50)—Cattle Subsidy Scheme (Approval) Order, 1937 (S. R. & O., 1937, No. 659), Schedule, para. 1.

The S. Market, which was owned by the respondent council was an approved certification centre for the purposes of the Cattle Subsidy Scheme, 1937. That scheme required, *inter alia*, that the place where animals were to be examined should be equipped with adequate penning accommodation for cattle. P., a local farmer, sent a number of steers in charge of employees to the market to be graded. The man in charge of the centre put them in a pen which was ordinarily used for the purpose on a normal market day. The pen consisted of permanent obstructions on three sides, while in front was a loose chain which could be hooked to the opposite side across the opening. Waiting at the market to meet the animals was B., who was the appellant's husband and P.'s foreman. One of the steers, while waiting to be graded, escaped under the chain, ran amok, and knocked down and killed B., whose widow sued the respondent council as the highway authority and the owners of the market, founding her action both in negligence and in nuisance :—

Held : the respondent council were not liable to the plaintiff. The only duty cast upon a market owner is to provide the requisite space and to permit those who so desire to attend and bring with them such things as are commonly

sold there. He does not undertake the care of animals sent to the market, nor is he under any duty to keep under control beasts which are brought there.

Decision of the Court of Appeal ([1940] 1 All E. R. 384) *affirmed on different grounds*.—BRACKENBOROUGH v. SPALDING URBAN DISTRICT COUNCIL, [1942] A. C. 310; [1942] 1 All E. R. 34; 111 L. J. K. B. 100; 166 L. T. 108; 106 J. P. 81; 58 T. L. R. 104; 40 L. G. R. 37, H. L. [501]

MATERNITY AND CHILD WELFARE

ORDERS, CIRCULARS AND MEMORANDA :—

Home Helps : Circular 2729

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ORDERS, CIRCULARS AND MEMORANDA

HOME HELPS

Circular 2729

November 23, 1942

Sir,

I am directed by the Minister of Health to state that he understands that in a number of districts difficulties are being experienced under present conditions in regard to the provision of domestic assistance in the home for women at the time of their confinement.

The Minister is aware that a number of Welfare Authorities have included the provision of Home Helps as part of the arrangements made in their Maternity and Child Welfare scheme and that much valuable assistance has been given in this way. In view of present circumstances he considered it important to examine the possibility of developing this service: he has therefore recently referred this question to his Advisory Committee on the Welfare of Mothers and Young Children, who have now made recommendations to him.

The Committee are of opinion, after enquiry, that there is scope for the development of this service and that there are opportunities for securing this development, to meet the needs of women who are unable to make satisfactory arrangements of their own at the time of their confinement.

Home Helps are most likely to be found among immobile women, of age groups from 40 to 60. Up to the present women in the age groups from 40 to 45 have registered, and the Minister has been in communication with the Minister of Labour and National Service as to the availability of such women as Home Helps. The Minister of Labour and National Service has agreed that work as Home Helps under the Maternity and Child Welfare scheme of a Local Authority should be regarded as work of national importance, and his local officers in interviewing women will regard this work as suitable for women over 40 and will encourage them to take it up where there is a need for their services. Where sufficient women are not already available to meet the needs the Local Authority should make their requirements known to the local officer of the Ministry of Labour and National Service and to the local offices of the Women's Voluntary Services, stating the areas in which the women will be expected to work and requesting that the names of women who are willing to undertake this work should be submitted to them for interview.

The Minister requests that the Authority will consider the question in consultation with the Local Supervising Authority (where that is a separate

Authority) and in the light of the circumstances of their area. The arrangements to be made, the conditions of service and the duties to be assigned to Home Helps are a matter for the Authority, but in each case they should be clearly defined and made known both to the Home Help and to the prospective patient; the accompanying memorandum indicates the kind of arrangements which have been made by a number of Local Authorities who have already made this form of provision and appear to the Committee and to the Minister to be generally appropriate. The Committee point out that it is important, where payment by patients is collected in instalments, that the instalments should begin at the earliest practicable date, in order to spread the financial burden.

The rate of pay will no doubt vary from district to district, but the Committee have expressed the view that where Home Helps are employed casually by the Local Authority the rate ought not to be less than 1s. per hour.

The Committee also suggest that in order to ensure the most economical use of the labour available Authorities should consider the advisability of appointing one or more whole-time Home Helps and of supplementing these as required from a panel of approved casual whole-time workers, of whom a register would be kept by the Authority.

The main scope for the employment of Home Helps will be found in helping lying-in mothers who have their confinement at home: in such cases the Home Help should be in attendance for not less than 14 days after the birth of the child, though this period should be capable of extension at the discretion of the Medical Officer of Health. The services of Home Helps should also be made available to mothers who during the ante-natal period are required by their doctor to rest or to enter hospital and who would be unable to do so without such assistance and, at the discretion of the Welfare Authority, to such other types of case as local circumstances may suggest: the availability of the service should depend on the needs of the patient for the service and should be in no way dependent on the financial circumstances of the patient. Between times whole-time Home Helps might be used on extra cleaning duties in clinics and other institutions belonging to the Welfare Authority.

The Minister has no doubt that in the interests of mothers and young children the Welfare Authority will wish to give all the assistance in their power, and he commends the suggestions made by the Committee with this object in view to their favourable consideration.

An additional copy of this Circular is enclosed for the use of the Financial Officer of the Authority and a copy has been sent direct to the Medical Officer of Health.

I am, Sir, etc. [502]

MEMORANDUM

Enclosure to Circular 2729

The following is a summary of existing Home Help Schemes, which has been prepared in order to assist Authorities who are considering the establishment of a service of Home Helps.

1. *Conditions of Employment.*

(i) Candidates for employment as Home Helps are interviewed in their own homes, and every care is taken to ensure that they are competent and suitable. References as to honesty, temperate habits and general good character are required and investigated.

- (ii) Successful candidates may be required to have a medical examination.
- (iii) Printed and oral instructions are given before commencement of work and where possible simple lectures on cookery, housewifery, laundry, care and management of children and the relation of Home Helps to doctors and midwives. These lectures are given as far as possible by members of the Local Authority's staff.
- (iv) Some Councils stipulate that they will not hold themselves responsible for any misdemeanour on the part of the Home Help or for any loss or damage which may occur while the Home Help is employed in the patient's home.

2. *Duties of Home Helps.*

- (i) The duties of Home Helps include the ordinary domestic work usually undertaken by the mother, such as cleaning, cooking, washing, care of children, mending and marketing.
- (ii) As and when needed the Home Help cleans out the mother's room, prepares and serves her meals and sees that the infant is properly fed and cared for.
- (iii) The Home Help never undertakes any work which properly belongs to the sphere of the midwife nor attends cases of confinement unless a doctor or midwife is in attendance.
- (iv) The Home Help does not assist at the confinement, but is at hand to bring hot water, etc., to the doctor or midwife.
- (v) She works under the supervision and direction of the health visitor or midwife and does not interfere with the instructions of the midwife or doctor.
- (vi) If a case of infection has occurred in her household or if she has been in contact with, or is suffering from, any infection she stops work at once and reports to the Health Department for instructions before attending upon the patient.
- (vii) Her term of duty is for two weeks from the date of confinement or, by special approval of the Medical Officer of Health, for other periods. She attends promptly at the home to which she is sent, and her hours of duty are fixed by the Medical Officer of Health.
- (viii) Attention to personal cleanliness is considered essential, and a clean overall or apron is worn while on duty.
- (ix) The Home Help should not discuss the family affairs or domestic conditions of any household in which she is employed.
- (x) She supplies and cooks her own food and never consumes alcohol while on duty.
- (xi) The Home Help may be required to notify the Health Department of the date on which she commences duty.

3. *Application for Services of Home Helps.*

- (i) A register of approved Home Helps is kept in the Health Department.
- (ii) Mothers requiring Home Helps for the lying-in period make application as early as possible in the pregnancy to the Medical Officer of Health, health visitor or midwife.
- (iii) Home Helps are only available if all efforts to arrange for the services of a neighbour or relative have failed. The health visitor or midwife ensures that applications for assistance are genuine and correctly stated on the application form.
- (iv) The patient may be required to record, on a card supplied to her by the Health Department, the number of hours worked each day by the Home Help and to state whether she is satisfied with the work done. This is forwarded, on termination of the Home Help's employment, to the Health Department.

4. *Supervision.*

The work of the Home Help is supervised by the health visitor or midwife.

5. *Remuneration.*

(i) Payment for the services of a Home Help is made at a rate fixed by the Local Authority.

(ii) The Home Help does not attend any case on behalf of the Local Authority until she has been notified that it will be responsible for payment for her services.

(iii) Reasonable tram and bus fares are allowed.

(iv) Payment is made by the Borough Treasurer as soon as proof of satisfactory service is obtained either from the health visitor or midwife.

6. *Repayment by Patients for Home Help Services.*

(i) Patients are expected to contribute to the cost of a Home Help according to their means, and a statement of the family's circumstances is required.

(ii) The collection of patients' contributions is on similar lines to existing arrangements for other health services. [503]

MEDICAL OFFICER OF HEALTH

CASES :—

Unger v. Preston Corpn., [1942] 1 All E. R. 200

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CASES

Contract—Frustration—Internment as alien enemy—Doctor engaged on whole-time basis by local authority.

The plaintiff, who was a refugee from Germany, was engaged by the defendants before the outbreak of war as a full-time school medical officer. In June, 1940, he was interned as an enemy alien, and was not released until March, 1941. In reply to a claim by the plaintiff for payment of his salary during the period he was interned, the defendants contended that, according to the doctrine of frustration, his contract of employment had been automatically terminated on his internment :—

Held : the contract between the parties had been frustrated, and, therefore, the plaintiff's engagement terminated on his internment.—*UNGER v. PRESTON CORPN.*, [1942] 1 All E. R. 200. [504]

MILK AND DAIRIES

See Food.

MOTOR LICENCES

ORDERS, CIRCULARS AND MEMO-

RANDA :—

Motor Vehicles (Driving Licences)
(Amendment) Provisional Regu-
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Road Vehicles (Regulation and
Licensing) (Amendment) Provi-
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ORDERS, CIRCULARS AND MEMORANDA

THE MOTOR VEHICLES (DRIVING LICENCES) (AMENDMENT) PROVISIONAL REGULATIONS, 1942

P. R. & O., 1942

April 27, 1942

Whereas in exercise of the powers conferred on him by section 30 of the Road Traffic Act, 1930, and section 6 of the Road Traffic Act, 1934, the Minister of Transport on the 7th day of May, 1937, made the Motor Vehicles (Driving Licences) Regulations, 1937 (hereinafter referred to as "the Principal Regulations") and those Regulations have been amended.

And whereas it is expedient that the provisions of the Principal Regulations should be further modified in manner hereinafter appearing.

Now, therefore, in exercise of the powers vested in him the Minister of War Transport hereby makes the following Regulations and further certifies under section 2 of the Rules Publication Act, 1893, that on account of urgency such Regulations should come into force forthwith as Provisional Regulations and continue in force until statutory rules shall have been made in accordance with the last mentioned Act.

1. These Regulations may be cited as "The Motor Vehicles (Driving Licences) (Amendment) Provisional Regulations, 1942". [505]

2. The Principal Regulations shall have effect as though :—

(i) the words "by one of His Majesty's Principal Secretaries of State in so far as concerns the testing of members of the National Fire Service" were inserted as paragraph (2A) of Regulation 7 thereof, and

(ii) "(2A)" were inserted between "(2)" and "(3)" in Regulations 9 and 14 thereof. [506]

3. The Interpretation Act, 1889, applies for the purpose of the interpretation of these Regulations as it applies for the purpose of the interpretation of an Act of Parliament. [507]

* * * * *

THE ROAD VEHICLES (REGISTRATION AND LICENSING) (AMENDMENT) REGULATIONS, 1942

S. R. & O., 1942, No. 1441

July 23, 1942

Whereas on the 28th July, 1941, the Minister of War Transport made the Road Vehicles (Registration and Licensing) Regulations, 1941 (hereinafter referred to as "the Principal Regulations") and such Regulations have been amended.

And whereas it is expedient that the provisions of the Principal Regulations should be further modified in manner hereinafter appearing.

Now, therefore, in exercise of the powers vested in him the Minister of War Transport hereby makes the following Regulations :—

1. These Regulations may be cited as "The Road Vehicles (Registration and Licensing) (Amendment) Regulations, 1942." [508]

2. The Principal Regulations shall have effect as though :—

- (1) in paragraph (2) of Regulation 26 thereof the expression " the first day of October, 1944 " were substituted for the expression " the first day of October, 1942 " ;
- (2) in the Third Schedule thereto there were respectively allotted to the Councils specified in the First Column of the Schedule hereto the further index marks specified in the Second Column of the Schedule hereto. [509]

3. The Interpretation Act, 1889, applies for the purpose of the interpretation of these Regulations as it applies for the purpose of the interpretation of an Act of Parliament. [510]

SCHEDULE

<i>Council</i>						<i>New Index Mark or Index Marks</i>
<i>County Council of—</i>						
Cardigan ... ..	...	...	...	...	...	AEJ & BEJ.
Carmarthen ... ..	...	...	...	...	...	EBX & ETH.
Huntingdon ... ..	...	...	...	...	...	DEW, EEW & FEW.
Kent ... ..	...	...	...	...	...	LKE, LKJ, LKK, LKL, LKM, LKN, LKO, LKP, LKR & LKT.
Leicester ... ..	...	...	...	...	...	EAY, EJU, ENR & EUT.
<i>Lincolnshire—</i>						
Parts of Holland ... ..	...	...	...	...	...	ADO & AJL.
Parts of Lindsey ... ..	...	...	...	...	...	DBE, DFU & DFW.
London ... ..	...	...	...	...	...	USN.
Northampton ... ..	...	...	...	...	...	DBD, DNV, DRP, EBD, ENV, ERP, FBD, FNV & FRP.
Oxford ... ..	...	...	...	...	...	CBW & CUD.
Pembroke ... ..	...	...	...	...	...	HDE.
Salop ... ..	...	...	...	...	...	DAW, DNT, DUJ & DUX.
Stafford ... ..	...	...	...	...	...	NRE & NRF.
West Suffolk ... ..	...	...	...	...	...	ACF & AGV.
Warwick ... ..	...	...	...	...	...	EAC, ENX, EUE, EWD, FAC, FNX, FUE & FWD.
Wilts ... ..	...	...	...	...	...	EAM, EHR, EMR, EMW & EWV.
<i>Council of the County Borough of—</i>						
Darlington ... ..	...	...	...	...	...	HHN & JHN.
Swansea ... ..	...	...	...	...	...	GCY, GWN, HCY, HWN, JCY & JWN.
West Bromwich ... ..	...	...	...	...	...	DEA
<i>County Council of—</i>						
Aberdeen ... ..	...	...	...	...	...	CAV, CSA, DAV & DSA.
Angus ... ..	...	...	...	...	...	DSR.
Lanark ... ..	...	...	...	...	...	DVA & DVD.
Perth ... ..	...	...	...	...	...	BES & BGS. [511]
*	*	*	*	*	*	*

THE ROAD VEHICLES (REGISTRATION AND LICENSING) (AMENDMENT) PROVISIONAL REGULATIONS, 1942

P. R. & O., 1942

August 14, 1942

Whereas on the 28th July, 1941, the Minister of War Transport made the Road Vehicles (Registration and Licensing) Regulations, 1941 (hereinafter

referred to as "the Principal Regulations") and such Regulations have been amended :

And whereas it is expedient that the provisions of the Principal Regulations should be further amended in manner hereinafter appearing :

Now, therefore, in exercise of the powers vested in him the Minister of War Transport hereby makes the following Regulations and further certifies under section 2 of the Rules Publication Act, 1893, that on account of urgency such Regulations should come into force forthwith as Provisional Regulations and continue in force until Statutory Rules shall have been made in accordance with the last mentioned Act.

1. These Regulations may be cited as "The Road Vehicles (Registration and Licensing) (Amendment) Provisional Regulations, 1942". [512]

2. Notwithstanding anything contained in Regulation 29 or Regulation 30 of the Principal Regulations where the person keeping a mechanically-propelled vehicle which he has laid up with the intention of not using it for the time being desires to move it from the place where it is then stored for storage in some other place, it shall be lawful for the duration of the present war for the holder of a General Trade Licence or a Limited Trade Licence to use such licence upon the vehicle for the purpose of so moving it. [513]

3. The Interpretation Act, 1889, applies for the purpose of the interpretation of these Regulations as it applies for the purpose of the interpretation of an Act of Parliament. [514]

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NATIONAL HEALTH AND UNEMPLOYMENT INSURANCE

ORDERS, CIRCULARS AND MEMORANDA :—	PAGE		PAGE
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		Cases :—	
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ORDERS, CIRCULARS AND MEMORANDA

THE UNEMPLOYMENT INSURANCE (EMPLOYMENT UNDER PUBLIC OR LOCAL AUTHORITIES AND TEMPORARY POLICE EMPLOYMENT) (EXCLUSION) (AMENDMENT) REGULATIONS, 1942

S. R. & O., 1942, No. 26

January 20, 1942

Whereas the Minister of Labour has made the Unemployment Insurance (Employment under Public or Local Authorities and Temporary Police Employment) (Exclusion) Regulations, 1936 (hereinafter referred to as "the principal Regulations"), and it is desirable to amend the said Regulations :

Now therefore the Minister of Labour and National Service, by virtue of the powers conferred on him by subsection (1) of section 104 and paragraph 3 of Part I of the First Schedule to the Unemployment Insurance Act, 1935, the Minister of National Service Order, 1939, and all other powers enabling him in that behalf, hereby makes the following Regulations :—

1.—(1) These Regulations may be cited as the Unemployment Insurance (Employment under Public or Local Authorities and Temporary Police Employment) (Exclusion) (Amendment) Regulations, 1942, and shall come into force on the date hereof, and these Regulations and the principal Regulations may be cited together as the Unemployment Insurance (Employment under Public or Local Authorities and Temporary Police Employment) (Exclusion) Regulations, 1936 and 1942.

(2) The Interpretation Act, 1889, applies to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. [515]

2. The principal Regulations shall have effect as if there were included amongst the employments under any public or local authority set out in the Second Schedule thereto the following employment :—

“employment in England or Wales as educational organiser in contributory service within the meaning of the Teachers (Superannuation) Act, 1925.”

Signed by Order of the Minister of Labour and National Service this 20th day of January, 1942. [516]

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CASES

Work and Labour—National health insurance—Widow's pension—Man in excepted employment—Marriage with insured women—Man accepted and paying contributions as voluntary contributor—Whether widow entitled to pension—Widows', Orphans', and Old Age Contributory Pensions Act, 1925 (c. 70), ss. 13 (4), 15 (7).

A police officer retired in 1919 and received a superannuation allowance. As a police officer he was in an excepted employment within the Widows', Orphans', and Old Age Contributory Pensions Act, 1925, s. 15 (7), and on Jan. 4, 1926, was neither an insured nor an exempt person. In 1933 he married the appellant who was an insured woman in respect of whom 104 contributions had been duly paid. The husband then gave notice to an approved society of his desire to become a voluntary contributor under sect. 13 (4) of the Act, and was admitted as such, and thereafter paid all contributions due from a voluntary contributor. The husband died on May 7, 1939, and the widow thereupon claimed a pension under the Act :—

Held: the provisions of s. 15 (7) prevented the husband from becoming an insured person in any circumstances, and the widow was not entitled to a pension.—*SUTCLIFFE v. MINISTER OF HEALTH*, [1942] 2 K. B. 86; [1942] 1 All E. R. 565; 167 L. T. 221; 58 T. L. R. 229; 86 Sol. Jo. 183; 40 L. G. R. 150, D. C. [517]

NUISANCE

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CASES

Public Health—Nuisance—Injury or danger of injury to health—Interference with personal comfort of occupier—Removal of door and windows of dwelling-house—Public Health Act, 1936 (c. 49), s. 92 (1).

The tenant of a flat had not paid her rent nor quitted the flat in accordance with a notice to quit which she had received. The landlord thereupon

removed the window sashes and the door, and a complaint was preferred against him in a court of summary jurisdiction that he had caused a statutory nuisance within the meaning of the Public Health Act, 1936, s. 92 (1):

Held: the removal of the window sashes and the door was a nuisance within the meaning of the section, since such removal interfered with the personal comfort of the tenant. It was not necessary to prove any injury or the danger of any injury to health nor was the section restricted to public nuisances.—*BETTS v. PENGED URBAN DISTRICT COUNCIL*, [1942] 2 K. B. 154; [1942] 2 All E. R. 61; 111 L. J. K. B. 565; 167 L. T. 205; 106 J. P. 202; 58 T. L. R. 283; 86 Sol. Jo. 313, D. C. [518]

Nuisance—Occupier—Local authority using stream for drainage—Statutory power to remove obstructions—Flooding due to weir erected and maintained by riparian owner—Nelson Local Board Act, 1879 (c. lxxvix), ss. 20, 21, 22.

The Nelson Local Board, predecessors of the defendant corporation, constructed in 1866 a reservoir which had an outlet known as the Walverden Stream, which flowed through the town of Nelson. In course of time this stream was enclosed in a culvert and in 1939 the flow of water through this culvert was alleged to be impeded by a bridge which had been taken over by the defendant corporation in 1884, and a number of weirs erected by manufacturers, who obtained water from the stream. To some extent the corporation drained surface water into this stream and they also used the culvert as a place where large pipes for drainage purposes could be conveniently laid. In a private Act of 1879, which was an Act primarily enabling the corporation to extend its water works, the corporation were given a permissive power to cleanse this stream and to remove banks, shelves or other impediments and obstructions to the free flow of the water, and all dams and weirs placed in the bed of the stream subject to a provision for compensation to the owners of any dam or weir lawfully placed therein. From time to time flooding had occurred due to the overflowing of this stream. On Nov. 25, 1939, there was a very heavy rainfall in Nelson and serious flooding followed, causing considerable damage to the plaintiffs' property and the present action was brought against the corporation and the owners of one of the weirs in the stream. It was found as a fact that the flooding was not due to any appreciable extent to the weir owned by the second defendants, nor to the bridge under the control of the corporation as the highway authority, but was due mainly to a weir, the owners of which were not before the court. It was then contended that the stream, the flow of water through which was impeded by a number of obstructions, was a nuisance and that the corporation was the occupier responsible for that nuisance:—

Held: (i) So far as property such as this stream can be occupied, the corporation were in occupation and control. They had full knowledge of the liability to flooding due to the existence of the obstructions and opportunity to remove those obstructions. They were, therefore, liable to the plaintiffs in damages as occupiers who had knowingly allowed a nuisance to continue on their premises.

(ii) The second defendants were liable in nominal damages only because their weir must by the accumulation of debris upon it have contributed in some small measure to the damage.

(iii) There should be liberty to apply in respect of an injunction.—*BANK VIEW MILL, LTD. v. NELSON CORPN. AND FRYER & CO. (NELSON), LTD.*, [1942] 2 All E. R. 477. [519]

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STATUTES

THE RESTORATION OF PRE-WAR TRADE PRACTICES ACT, 1942

(5 & 6 Geo. 6, c. 9)

PRELIMINARY NOTE

This Act is intended to implement a pledge given by the Government that provision would be made for the restoration of trade practices surrendered or departed from under the exigencies of war conditions or to meet the requirements of war production. Its counterpart in respect of the war of 1914-1918 was a Treasury Agreement, and it is significant of the development of the principle of collective organisations representative of employers on the one hand, and of workmen on the other, that this Act has already been passed, as an agreed measure amongst the interests primarily concerned, for the purpose of making provision for conditions which will not have to be met until the present emergency is at an end.

The Act is concerned with trade practices as defined in s. 11. It will be noted from this definition that the Act is not concerned with wages, but only with rules, practices or customs with regard to the classes of persons to be or not to be employed, and the conditions of employment, hours of work, and working conditions. Dilution and demarcation are probably the most important aspects of departures from trade practices within this definition. The effect of the Act is that any trade practices which have been departed from in any undertaking during the war period (as defined by s. 11) must be restored by employers within two months from the end of the war period and must be maintained for a period of eighteen months (s. 1). The latter period has been fixed to cover the process of transition of industry from a war-time basis to a peace-time basis.

In addition to this provision for restoration of trade practices departed from during the actual war period, it is also provided in s. 1 (3) that where, under a written agreement, a trade practice was departed from in any undertaking during the period between April 30, 1939, and the beginning of the war period, for the purpose of accelerating the production of munitions of war, the same obligation shall be imposed upon the employer as applies in the case of trade practices departed from during the war period.

The obligation thus imposed upon employers is absolute in its terms, and appears to arise whether or not the departure from the trade practice was the result of war needs or conditions provided that the departure took place during the war period. Provision is, however, made in s. 2 for this obligation to be waived or modified by agreement between the employer or organisation of employers and the trade unions concerned, and it will thus be possible, under this section, to perpetuate departures from trade practices which have taken place as the result of normal industrial evolution, or which are in themselves beneficent and desired to be perpetuated by the parties concerned.

The Act contains provisions in ss. 3-6 for the settlement of any question whether the employer's obligation under s. 1 has been discharged, or whether, in any particular case, the obligation imposed by s. 1 arises.

The expression "undertaking", which is used throughout the Act is nowhere defined, except that s. 11 (2), *post*, provides that, subject to special provisions

relating to the Crown (see s. 7) and to local authorities (see s. 8), the Act shall not apply to an undertaking which is not carried on by way of trade or business. The construction of this expression is not entirely free from difficulty, but is discussed in the notes to s. 1, *post*.

The effect of the definition of "war period" in s. 11 (1), is to limit the Act to the present emergency.

ARRANGEMENT OF SECTIONS

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An Act to make provision with respect to the restoration after the war period of trade practices obtaining before that period. [520] [26th February, 1942]

1. Restoration of pre-war practices.—(1) Where during the war period (whether before or after the commencement of this Act) any trade practice obtaining immediately before that period in any undertaking has been departed from in that undertaking, the employer shall, subject to the provisions of this Act, be under an obligation—

- (a) to restore or permit the restoration of the trade practice before the expiration of two months from the end of the war period; and
- (b) to maintain or permit the continuance of the trade practice for eighteen months from the date when the restoration is effected or the end of the war period, whichever is the later. [521]

(2) Where any undertaking or any branch of an undertaking began to be carried on during the war period (whether before or after the commencement of this Act), the employer shall, subject to the provisions of this Act, be under an obligation—

- (a) before the expiration of two months from the end of that period, to introduce, or permit the introduction of, such trade practices as obtained immediately before that period in undertakings or branches of undertakings carried on in circumstances most nearly analogous to those of the undertaking or branch in question; and
- (b) to maintain, or permit the continuance of, such trade practices for eighteen months from the date when their introduction is effected or the end of the war period, whichever is the later. [522]

(3) Where, with a view to accelerating the production of munitions of war, any trade practice obtaining in an undertaking on the thirtieth day of April, nineteen hundred and thirty-nine, was departed from after that date and before the beginning of the war period in pursuance or in consequence of a written agreement between an organisation of employers and a trade union, subsection (1) of this section shall apply as if the trade practice had obtained in the undertaking immediately before the war period and had been departed from in the undertaking during that period.

For the purpose of this subsection, the expression "munitions of war" includes the whole or any part of any ship, submarine, aircraft, tank or

similar engine, arms and ammunition, torpedo, or mine, intended or adapted for use in war, and any other article, material or device intended for such use. [523]

For definitions of "war period", "trade practice", "employer", "organisation of employers", and "trade union", see s. 11, *post*.

Except in relation to the application of the Act to local authorities under s. 8, *post*, the expression "undertaking" is not defined. It was stated by the Joint Parliamentary Secretary to the Ministry of Labour during the Committee stage in the House of Commons (see 377 H. of C. Official Report 1444) that the Act is primarily intended to deal with industrial undertakings, and the context would appear to be intended so to limit its application. See also s. 11 (2), *post*, which provides that the Act shall not apply to an undertaking which is not carried on by way of trade or business. Some guidance as to the scope and meaning of the term "industrial undertaking" may be obtained from the definition thereof in s. 4 of, and the Schedule to, the Employment of Women, Young Persons and Children Act, 1920 (8 Statutes 640, 641). The view was expressed during the Committee stage in the House of Commons that the Act would cover maintenance staffs of local authorities "because they would be members of an organisation which had entered into agreement with the employers prior to the war" (per Joint Parliamentary Secretary to the Minister of Labour, 377 H. of C. Official Report 1445). It would seem, however, that this view can only be supported by reference to sub-s. (3) of this section, and that subsection is limited to trade practices departed from "with a view to accelerating the production of munitions of war", and it must, in any case, be read as part of the section, and of the Act, as a whole. It would, therefore, seem doubtful whether the expression "undertaking" as used in this Act would include anything other than an industrial undertaking in its broad and general significance, or whether, *e.g.* it would include a profession. It is, however, submitted that it will include services carried on as ancillary to the principal business of any undertaking. Cf. s. 30 of the Ministry of Transport Act, 1919] (3 Statutes 441); and see *South Behar Rail. Co., Ltd. v. Inland Revenue Commissioners*, [1925 A. C. 476, H. L.

Sub-ss. (1) and (2) apply to any undertaking in which a trade practice which obtained immediately before the war period has been departed from during this period. These subsections, unlike sub-s. (3), appear to assume that any such departure, if it in fact was made, was the result of the war. This is doubtless the best method for achieving the object of the Act, and provision for contracting-out in a case where the departure is intended to be permanent is made by s. 2, *post*. Subject thereto, the restored trade practice must be maintained for a period of eighteen months from the date of the restoration or from the end of the war period, whichever is the later. This period is designed to cover the period of transition of industry as a whole from a war-time basis to a peace-time basis.

It should be observed that sub-s. (3) is limited to cases where the departure from the trade practice was "with a view to accelerating the production of munitions of war". It was added during the Committee stage in the House of Commons (see 377 H. of C. Official Report 1446 *et seq.*) to provide for cases where trade practices were departed from for this purpose in the period from April 30, 1939, to the beginning of the war period to which sub-ss. (1) and (2) are limited. The limitation introduced by the words "with a view to accelerating the production of munitions of war" is designed to exclude trade practices which changed in the ordinary course of industrial evolution. The date April 30, 1939, was fixed by reference to the date of the earliest agreement for departure from trade practices of which the Ministry of Labour and National Service was aware.

For the machinery for settlement of any questions which may arise in the interpretation of the obligation imposed by this section, see ss. 3 and 4, *post*.

As to offences and penalties, see s. 5, *post*.

2. Agreements for modification of obligation to restore practices.—(1) An agreement may be made in writing as respects any undertaking or branch thereof between—

- (a) the employer, an organisation of employers of which he is a member, or an association of which such an organisation is a member; and
- (b) a trade union whose custom it was before the war period to maintain a trade practice in that undertaking or branch or in other undertakings or branches of undertakings carried on in circumstances analogous to those of that undertaking or branch, or an association of which such a trade union is a member;

providing for the modification or waiver of the obligation imposed by section one of this Act in relation to that trade practice, or for the reference to arbitration of the question whether the said obligation should be modified or waived:

Provided that no agreement shall be deemed to have been duly made under this subsection unless, before the making thereof, an opportunity of making representations with respect to its terms was given, by the employer, organisation of employers, or association of organisations of employers by whom or by which it was made, to every trade union which was a party to any agree-

ment in writing in pursuance whereof the trade practice was departed from in the undertaking. [524]

(2) Where an agreement has been duly made under the foregoing subsection in relation to any trade practice, or an award has been made in pursuance of such an agreement, the employer shall, so long as he complies with the terms of the agreement or award, be deemed to have discharged the obligation imposed by the said section one in relation to that practice. [525]

(3) The Industrial Court shall have power to deal with any question referred to it in pursuance of an agreement duly made under subsection (1) of this section. [526]

(4) In this section the expression "trade union" does not include a combination of which one of the principal objects is the regulation of relations between masters and masters. [527]

As to the meaning of "undertaking", see the notes to s. 1, *ante*.

For definitions of "employer", "trade union", "war period", "trade practice" and "Industrial Court", see s. 11, *post*. Note the modification of the definition of "trade union" by sub-s. (4) hereof.

This section provides a method whereby departures from trade practices which would otherwise be required to be restored under the preceding section may be made permanent. This can be done by agreement between an employers' organisation and a trade union. Every trade union which was a party to the agreement for departure from the trade practice must be consulted before an agreement to make such departure permanent can be made. The agreement may adopt such departure either wholly or in part, and in the latter case the obligation of the employer under s. 1 will still apply except only in so far as it is modified by the agreement. The section will offer a useful means of ensuring the continuance of departures from trade practices which are regarded as the result of normal industrial evolution or which are otherwise beneficial to the parties concerned, while the generality of the obligation imposed by s. 1 will safeguard against any failure to restore a trade practice which ought to be restored.

As to the constitution and procedure of the Industrial Court, see the notes to s. 11, *post*.

3. Settlement of questions.—(1) If any question arises as respects any undertaking whether—

(a) any obligation has been imposed on the employer by section one of this Act in relation to any trade practice; or

(b) the employer has discharged any obligation so imposed;

that question may be reported to the Minister by any organisation of employers or trade union which in the opinion of the Minister habitually takes part in the settlement of wages and working conditions in the trade or industry in question. [528]

(2) Where a question is reported to the Minister under this section, he shall deal with it in accordance with the following provisions :—

(a) if in his opinion suitable provisions already exist for the settlement of the question by virtue of any agreement to which the parties are any such organisation of employers and any such trade union as aforesaid, he shall refer the question for settlement in accordance with those provisions;

(b) if in his opinion no such provisions exist, he shall either refer the question to arbitration in accordance with the next following section or take such other steps as appear to him to be expedient for settling it;

(c) where an attempt has been made to settle the question under either of the foregoing paragraphs of this subsection, otherwise than by referring it to arbitration in accordance with the next following section, and in the opinion of the Minister the attempt has failed or is unlikely to succeed within a reasonable time, he shall refer the question to arbitration in accordance with the next following section and revoke any previous reference that may have been made by him. [529]

For definitions of "employer", "organisation of employees", "trade practice" and "the Minister", see s. 11, *post*.

The whole section may be compared with the provisions of Article 2 of the Conditions of Employment and National Arbitration Order, 1940 (S. R. & O., 1940, No. 1305) (33 Statutes 734).

4. Arbitrations under Act.—(1) Any question referred to arbitration in accordance with this section shall be determined by the arbitration of one or more persons (in this Act referred to as an "arbitration tribunal") appointed by the Minister. [530]

(2) Where a question is so referred, the arbitration tribunal shall enter upon and proceed with the reference without delay and make its award within fourteen days from the date when the question was so referred to it or such longer time as may be certified by the award to have been necessary for the proper determination of the question. [531]

(3) If as respects any undertaking the arbitration tribunal finds that any obligation imposed by section one of this Act in relation to a trade practice has not been discharged by the employer, its award—

- (a) shall define precisely the nature of the trade practice and state in what respects the employer has failed to discharge the said obligation in relation thereto ;
- (b) shall state precisely what steps are to be taken by the employer in order to discharge the said obligation in relation to the trade practice ;
- (c) may be made so as to take effect from the date of the award, or such earlier date (not being earlier than the date on which the question was reported to the Minister under this Act) as may be specified therein ;
- (d) may provide for the payment to any person employed in the undertaking of any sum by way of additional remuneration which he would have received if the trade practice had been observed in the undertaking from the time when the award has effect ;
- (e) shall define the period for which the trade practice is to be maintained or continued, so that it may be shorter or longer than the period specified in section one of this Act, but shall not expire later than eighteen months from the date of the award ;
- (f) shall be binding on all persons from time to time employing persons in the undertaking. [532]

(4) Any sum due by virtue of any such award to any person employed in an undertaking may be recovered by him summarily as a civil debt from the employer. [533]

(5) Subject to the foregoing provisions of this section, the Minister may make rules for regulating the procedure of arbitration tribunals, and the Arbitration Acts, 1889 to 1934, shall not apply to any reference to an arbitration tribunal except in so far as they may be applied by the said rules. [534]

For definition of "trade practice" and "employer", see s. 11, *post*.

Questions may be referred by the Minister for arbitration in accordance with this section under s. 3, *ante*, for the purpose of determining whether there is any obligation under s. 1, *ante*, or whether any such obligation has been discharged.

The arbitration tribunal will generally be constituted with an independent chairman, who will be a barrister or a solicitor and will be assisted by panels of assessors and technical experts (per the Minister of Labour and National Service : 377 H. of C. Official Report 1933).

Failure to comply with an award under this section renders the employer subject to the penalties prescribed by s. 5, *post*.

As to recovery of civil debts in courts of summary jurisdiction, see s. 35 of the Summary Jurisdiction Act, 1879 (11 Statutes 342). The six months' limitation of time under s. 11 of the Summary Jurisdiction Act, 1848 (11 Statutes 273), will apply. In proceedings under this subsection, a certified copy of the award is evidence of the contents thereof (s. 6, *post*).

For the Arbitration Act, 1889, see 1 Statutes 453. For the Arbitration Act, 1934, see 27 Statutes 27.

5. Offences and penalties.—(1) If, as respects any undertaking, the employer makes default in complying with an award made under the last foregoing section, he shall be guilty of an offence and shall be liable on

summary conviction thereof to a fine not exceeding fifty pounds, and if after being so convicted he continues to make the like default, he shall be guilty of a further offence and shall be liable on summary conviction thereof to a fine not exceeding fifty pounds for each day on which the default continues after the first mentioned conviction. [535]

(2) Proceedings in respect of an offence under this section may be instituted by or on behalf of any person employed in the undertaking or by or on behalf of any trade union or by or on behalf of the Minister. [536]

(3) Except as provided in this and the last foregoing section, no proceedings, whether civil or criminal, shall be brought against any person in respect of a failure to comply with the obligations imposed on him by section one of this Act. [537]

For definitions of "employer" and "trade union", see s. 11, *post*.

This section penalises failure by an employer to comply with an award under s. 4, *ante*, and it should be observed that it is only when such an award has been made that the obligation imposed upon an employer by this Act becomes enforceable by legal proceedings. Note the exclusion of any other proceedings by subsection (3).

6. Evidence of awards.—In any proceedings under subsection (4) of section four of this Act or under the last foregoing section, a copy of the award of an arbitration tribunal, purporting to be certified as a true copy by the tribunal or any member thereof, shall be evidence of the contents of the award. [538]

7. Application to the Crown.—His Majesty, on the recommendation of the Minister, may by Order in Council direct that this Act shall apply, subject to such modifications and exceptions as may be specified in the Order, to undertakings carried on by or on behalf of His Majesty of such classes as may be so specified. [539]

Upon the Committee stage in the House of Commons, an assurance was given on behalf of the Government that it is intended to apply the principle of this Act to Government undertakings (377 H. of C. Official Report 1470).

8. Application to local authorities.—(1) This Act shall apply to the following undertakings carried on by a local authority, that is to say,—

(a) gas, water, electricity and transport undertakings; and

(b) undertakings of such other classes as the Minister may by order direct; and save as aforesaid this Act shall not apply to any undertaking so carried on. [540]

(2) Where an order is made under the foregoing subsection as respects undertakings of any class, the order may provide that, in the application of this Act to those undertakings, the expression "trade practice" shall not include a rule, practice or custom observed in those undertakings with respect to persons of such classes as may be specified in the order. [541]

"Local authority" is defined in s. 11, *post*.

As to the meaning of "undertaking", see the notes to s. 1, *ante*.

The assurance was given on the Committee stage in the House of Commons that the Minister of Health would circularise local authorities to the effect that classes of workers who are not covered by the Act should be treated as if the Act applied to them (377 H. of C. Official Report 1471).

9. Provisions as to orders.—(1) Any Order in Council or order made under the foregoing provisions of this Act or this section may be varied or revoked by a subsequent Order in Council or order made in like manner. [542]

(2) The Minister shall neither recommend His Majesty to make any such Order in Council, nor make any such order, until a draft thereof has lain before each House of Parliament for a period of forty days, and if either House within that period resolves that the draft of the Order in Council be not submitted to His Majesty, or that the order be not made, no further proceedings shall be taken thereon. [543]

(3) In reckoning any such period of forty days, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days. [544]

10. Expenses.—There shall be defrayed out of moneys provided by Parliament—

- (a) any expenses incurred by the Minister in carrying this Act into operation, including the expenses of arbitration tribunals; and
- (b) any increase in the expenses of the Industrial Court which is attributable to the passing of this Act. [545]

11. Interpretation.—(1) In this Act the following expressions have the meanings hereby respectively assigned to them, that is to say,—

“employer”, in relation to an undertaking, means the employer of persons employed in the undertaking;

“Industrial Court” means the court constituted by section one of the Industrial Courts Act, 1919;

“local authority” means the council of a county, county borough, county district or metropolitan borough or the Common Council of the City of London or a joint board or joint committee constituted under any enactment to discharge the functions of two or more such councils;

“the Minister” means the Minister of Labour and National Service;

“organisation of employers”, except in section two of this Act, includes an association of two or more such organisations.

“trade practice”, in relation to an undertaking or branch of an undertaking, means any rule, practice or custom (whether obtaining by virtue of contracts of employment or otherwise) observed in the undertaking or branch with respect to the class or classes of persons to be or not to be employed therein, or with respect to the conditions of employment, hours of work or working conditions of the persons or any class of the persons so employed;

“trade union” means any combination which is by virtue of section two of the Trade Union Act, 1913, a trade union for the purpose of the Trade Union Acts, 1871 to 1927; and, except in section two of this Act, includes an association of two or more such combinations.

“war period” means the period beginning with the third day of September, nineteen hundred and thirty-nine and ending with such date as the Minister may by order appoint, not being later than the date on which the Emergency Powers (Defence) Act, 1939, expires. [546]

(2) Subject to the provisions of this Act relating to the Crown and local authorities, this Act shall not apply to an undertaking which is not carried on by way of trade or business. [547]

For s. 1 of the Industrial Courts Act, 1919, see 19 Statutes 716. The section provides that for the purpose of the settlement of trade disputes under that Act there shall be a standing Industrial Court, consisting of persons to be appointed by the Minister of Labour, of whom some shall be independent persons, some representative of employers and some representative of workmen, with, in addition, one or more women. The president of the court, and the chairman of any division thereof, is appointed by the Minister from the independent members. For the purpose of dealing with any matter referred to it, the court is constituted of such of the members thereof as the president may direct. The Minister has not appointed a Standing Industrial Court by order in S. R. & O. form. The President and certain other officers have been appointed under the Minister's seal as permanent officials of the court; other officers of the court are appointed for the term of one year, and are eligible for re-appointment.

Cf. the definition of “trade practice” in Article 7 of the Conditions of Employment and National Arbitration Order, 1940 (S. R. & O., 1940, No. 1305), 33 Statutes 737. For provisions for the recording of departures from trade practices, see Article 6 of that Order.

For s. 2 of the Trade Union Act, 1913, see 19 Statutes 703. For the Trade Union Acts, 1871 to 1927, see 19 Statutes 638 (Act of 1871), 662 (Act of 1876), 686 (Trade Disputes Act, 1906), 703 (Act of 1913), and 744 (Trade Disputes and Trade Unions Act, 1927).

As to the duration of the Emergency Powers (Defence) Act, 1939, see s. 11 thereof (32 Statutes 937), and notes thereon in the Cumulative Supplement at Vol. 32, No. 3482.

As to the meaning of “undertaking”, see further the notes to s. 1, *ante*.

12. Application to Scotland. [548]

13. Application to Northern Ireland. [549]

14. Short title.—This Act may be cited as the Restoration of Pre-War Trade Practices Act, 1942. [550]

CASES

Trade Unions—Imposing conditions on employees—Employees of public authority accorded right of representation by union officials—Right of employees to be represented by officials of other union—Condition of employment of employees who are or are not members of union placing them under disability or disadvantage—Trade Dispute and Trade Unions Act, 1927 (c. 22), s. 6.

The appellants had accorded their employees the right to be accompanied by a representative of trade union A at the hearing of appeals in respect of disciplinary action against such employees. The respondent, an employee of the appellants, was a member of trade union B, and he claimed a declaration that the condition of his employment whereby he was denied "the advantage of representation by an official of his own trade union, when such advantage is granted to or is the right of other servants", members of another union, was unlawful. The respondent contended that the denial by the appellants of the right of their employees to be represented by officials of a union other than union A was a "condition" within the Trade Disputes and Trade Unions Act, 1927, s. 6 (1), and, as such, was void by s. 6 (3) of the Act.

Held: the above term of the contract of employment did not constitute a condition within the meaning of s. 6 of the Act, and the respondent's claim failed.

Decision of the Court of Appeal ([1940] 4 All E. R. 281) reversed and decision of MORTON, J., ([1940] 3 All E. R. 225), restored.—LONDON PASSENGER TRANSPORT BOARD v. MOSCROP, [1942] A. C. 332; [1942] 1 All E. R. 97; 111 L. J. Ch. 50; 166 L. T. 202; 106 J. P. 97; 58 T. L. R. 120; 40 L. G. R. 67, H. L. [551]

Emergency Legislation—Local government—Remuneration of officers—Power of local authority to contract to make up remuneration up to peacetime level—Discretion of local authority—Local Government Staffs (War Service) Act, 1939 (c. 94), s. 1 (1), (2).

Trade and Trade Unions—Settlement of trade differences and disputes—Reference to National Arbitration Tribunal—"Trade dispute"—"Workman"—Industrial Courts Act, 1919 (c. 69), s. 8—Defence (General) Regulations, reg. 58AA—Conditions of Employment and National Arbitration Order, 1940 (S. R. & O., 1940, No. 1305), art. 2.

By the Conditions of Employment and National Arbitration Order, 1940, art. 2, the Minister of Labour and National Service is given power to refer any "trade dispute" to the National Arbitration Tribunal for settlement. Purporting to act under this power, the minister referred to arbitration a claim by the National Association of Local Government Officers that it should be a condition of service of the officers in the employment of a certain local authority that, in the event of their being called upon to serve in His Majesty's Forces or in the civil defence units, the difference between their service pay and the remuneration which they would have received if they had continued in the service of the local authority should be made up to them. The local authority applied for an order prohibiting the arbitration tribunal from adjudicating upon the dispute, on the ground that there was no "trade dispute" within the meaning of that term as used in the order :—

Held: (i) A local authority is empowered by the Local Government Staffs (War Service) Act, 1939, to contract to make up the war service pay of its officers who may subsequently join such forces to the amount of their peacetime remuneration.

(ii) The question raised by the Bolton Corporation's refusal of the appellant's request was a "trade dispute" within the meaning of the Industrial Courts Act, 1919, and the Defence (General) Regulations, reg. 58AA.

(iii) The officers of the corporation who were represented by the appellant association were "workmen," and the definition included those officers or servants engaged in managerial, administrative or professional duties. It was, therefore, within the competence of the National Tribunal to make an award binding on the respondent corporation.

Decision of the Court of Appeal ([1941] 2 All E. R. 800), *reversed*.—NATIONAL ASSOCN. OF LOCAL GOVERNMENT OFFICERS *v.* BOLTON CORPN., [1942] 2 All E. R. 425; 167 L. T. 312; 106 J. P. 255; 59 T. L. R. 1; 40 L. G. R. 273, H. L. [552]

Landlord and Tenant—Service occupier—Failure to deliver up on termination of service—Forcible entry—No unnecessary force used—Whether leave to enter is necessary—Courts (Emergency Powers) Act, 1939 (c. 67), s. 1.

The respondent, the plaintiff in the action, was employed by the appellants as foreman at their refuse disposal plant. They provided him with a house for which he paid no rent but which he was required to occupy. The employment was terminated by notice and the respondent was required to leave the house. This he failed to do owing to his inability to find another house in the neighbourhood. After some respite had been given to him, the appellants took possession and removed his furniture, using no unnecessary force. The respondent claimed that the appellants had committed a breach of the law in taking that step without first obtaining the leave of the court under the Courts (Emergency Powers) Acts:—

Held: in taking possession the appellants were exercising a right of property and not exercising a remedy which operated to defeat or determine an interest or title of the respondent and, therefore, the leave of the court was not necessary.—BUTCHER *v.* POOLE CORPN., [1942] 2 All E. R. 572; 167 L. T. 389; 59 T. L. R. 56, C. A. [553]

OMNIBUSES OF LOCAL AUTHORITIES

See ACTIONS BY AND AGAINST LOCAL AUTHORITIES.

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ORDERS, CIRCULARS AND MEMORANDA

THE WIMBLEDON AND PUTNEY COMMONS CONSERVATORS (TEMPORARY PROVISIONS) ORDER, 1942

S. R. & O., 1942, No. 96

January 22, 1942

Whereas by the Wimbledon and Putney Commons Conservators (Temporary Provisions) Order, 1940, made under section two of the Chartered and Other Bodies (Temporary Provisions) Act, 1939, provision was made for extending the term of office and postponing the election of elected Conservators until the year nineteen hundred and forty-one and for incidental and consequential matters :

And whereas by the Wimbledon and Putney Commons Conservators (Temporary Provisions) Order, 1941, further provision was made for extending the term of office and postponing the election of elected Conservators until the year nineteen hundred and forty-two :

And whereas application has been made on behalf of the Conservators praying that His Majesty may be graciously pleased to make a further Order in Council with respect to them under the said section two :

Now, therefore, His Majesty in pursuance of the powers conferred on Him by the said section two and of all other powers enabling Him in that behalf is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :—

1. Articles 1 and 2 of the Wimbledon and Putney Commons Conservators (Temporary Provisions) Order, 1940, as amended by the Wimbledon and Putney Commons Conservators (Temporary Provisions) Order, 1941, shall have effect with the substitution for references to the year nineteen hundred and forty-two of references to the year nineteen hundred and forty-three. [554]

2. Articles 3 and 4 of the Wimbledon and Putney Commons Conservators (Temporary Provisions) Order, 1940, as amended by the Wimbledon and Putney Commons Conservators (Temporary Provisions) Order, 1941 (which provide for the holding of an election of Conservators otherwise than at the end of three years as provided by section fourteen of the Wimbledon and Putney Commons Act, 1871), shall cease to have effect, and an election shall accordingly be held under the said section fourteen within three months before the first Wednesday in April, nineteen hundred and forty-three, of Conservators who shall hold office until the first Wednesday in April, nineteen hundred and forty-six. [555]

3. This Order may be cited as the Wimbledon and Putney Commons Conservators (Temporary Provisions) Order, 1942. [556]

THE EPPING FOREST VERDERERS (EXTENSION OF TERM OF OFFICE) ORDER, 1942

S. R. & O., 1942, No. 1550

August 6, 1942

Whereas application has been made on behalf of the Verderers of Epping Forest praying that His Majesty may be graciously pleased to make an Order in Council under section two of the Chartered and Other Bodies (Temporary Provisions) Act, 1939, with respect to the said Verderers :

Now, therefore, His Majesty, in pursuance of the powers conferred on Him by the said section two and of all other powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :—

1.—(1) The term of office of the Verderers of Epping Forest holding office at the date of this Order shall extend until the expiration of the twenty-fourth day of March, nineteen hundred and forty-four, and accordingly the election of the said Verderers which, by subsection (4) of section thirty of, and paragraph 10 of the Fourth Schedule to, the Epping Forest Act, 1878, is required to be held in the year nineteen hundred and forty-three shall not be held.

(2) The provisions of the said Act relating to the vacation by a Verderer of his office shall apply in relation to the extended term of office of the said Verderers. [557]

2. This Order may be cited as the Epping Forest Verderers (Extension of Term of Office) Order, 1942. [558]

PERSONS OF UNSOUND MIND

See also SUPERANNUATION.

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ORDERS, CIRCULARS AND MEMORANDA

THE MENTAL TREATMENT (EMERGENCY PROVISIONS) RULES, 1942

S. R. & O., 1942, No. 1908

September 7, 1942

103468/B.C.

The Board of Control, in exercise of the powers conferred on them by subsection (1) of section 338 of the Lunacy Act, 1890, as extended by section 15 of the Mental Treatment Act, 1930, and with the approval of the Lord Chancellor, hereby make the following rules :—

1. These rules may be cited as the Mental Treatment (Emergency Provisions) Rules, 1942. [559]

2. These rules shall come into operation on the date hereof and shall continue in operation until such date as His Majesty may by Order in Council declare to be the date on which the emergency that was the occasion of the passing of the Courts (Emergency Powers) Act, 1939, came to an end. [560]

3. The Mental Treatment Rules, 1930, shall have effect as if :—

(1) In paragraph (1) of rule 126, the words “or if no persons were so visited, shall make a return to that effect” were omitted therefrom; and

(2) In the Schedule, Form 39 were omitted therefrom. [561]

* * * * *

CASES

Divorce—Incurable unsoundness of mind—Private guardian ad litem—Resolution of visiting committee appointing clerk as guardian in all cases.

A visiting committee passed a resolution that the clerk to the committee should be appointed guardian *ad litem* in any existing and future divorce cases affecting the patients in mental hospitals :—

Held : a general resolution of this nature ought not to be acted upon. It is essential that there should be independent representation of a respondent who is alleged to be of unsound mind and an automatic appointment of a guardian *ad litem* is improper.—BAILEY v. BAILEY, [1942] 2 All E. R. 89; 167 L. T. 29; 86 Sol. Jo. 195. [562]

POOR LAW

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ORDERS, CIRCULARS AND MEMORANDA

ORDER IN COUNCIL AMENDING REGULATION . . . 32A ... OF THE DEFENCE (GENERAL) REGULATIONS, 1939

S. R. & O., 1942, No. 92.

January 22, 1942

* * * * *

5. In paragraph (4) of Regulation thirty-two A of the principal Regulations, after the word "workhouse," there shall be inserted the words "within the meaning of the Lunacy Act, 1890." [563]

* * * * *

POLICE

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ORDERS, CIRCULARS AND MEMORANDA

ORDER IN COUNCIL AMENDING REGULATIONS 29B, 39 ... OF ... THE DEFENCE (GENERAL) REGULATIONS, 1939

S. R. & O., 1942, No. 92

January 22, 1942

* * * * *

2.—(1) In Regulation twenty-nine B of the principal Regulations, after the words “women’s auxiliary police corps” there shall be inserted, in paragraphs (1) and (1A), the words “or as members of the police auxiliary messenger service”, and, in paragraph (3A), the words “or of the police auxiliary messenger service”.

(2) The proviso to paragraph (1) and the proviso to paragraph (1A) of the said Regulation twenty-nine B shall be omitted, and for the proviso to paragraph (1B) of that Regulation there shall be substituted the following proviso :

“Provided that sub-paragraph (b) of this paragraph shall not apply to a person employed without remuneration.”

(3) For sub-paragraph (a) of paragraph (5) of the said Regulation twenty-nine B there shall be substituted the following sub-paragraph :—

“(a) for references to a Secretary of State (except in sub-paragraphs (ee) and (f) of paragraph (3A)) or the Minister of Transport there shall be substituted references to the Ministry of Home Affairs for Northern Ireland, and for references in the said sub-paragraphs (ee) and (f) to a Secretary of State or the Minister of Health there shall be substituted references to the Ministry of Public Security for Northern Ireland”,

and the Schedule to the Defence (Functions of Ministers) Regulations, 1941, shall apply in relation to the functions transferred by this paragraph from the Ministry of Public Security for Northern Ireland to the Ministry of Home Affairs for Northern Ireland, as it applies in relation to functions transferred by those Regulations. [564]

* * * * *

7. After paragraph (4) of Regulation thirty-nine of the principal Regulations there shall be inserted the following paragraph :—

“(4A) If, on considering the fitness of any chief officer of police to perform his duties in the conditions which prevail or may be expected to prevail in his police district, the Secretary of State is satisfied that it is expedient that that chief officer should be required or authorised to retire and receive an ordinary pension notwithstanding that under the Police Pensions Act, 1921, it is not compulsory or it is not possible for him to do so, the Secretary of State may require or authorise that chief officer to retire and receive an ordinary pension for life or a gratuity as if his retirement had been on a medical certificate by reason of his incapacity for the performance of his duty by infirmity of mind or body, and all the provisions of the said Act shall have effect accordingly :

Provided that where a pension is granted to the chief officer—

(a) section twelve of the said Act shall not apply ; and

(b) the Secretary of State may if he thinks it just so to do direct that the pension of the chief officer and any pension granted under the said Act to his widow and any gratuity granted under the said Act to her or to any of his children shall be computed as if there

were made to his approved service such addition as may be specified in the direction not exceeding the additional period for which he would have served if he had continue to serve until the date which (apart from any such extension of his service as is mentioned in subsection (1) of section one of the said Act) would have been the date on which he would have had to retire compulsorily under that Act on the ground of age.

Nothing in this paragraph shall be construed as prejudicing any right existing apart from this paragraph to dismiss a chief constable or to require him to retire as an alternative to dismissal." [565]

* * * *

ORDER IN COUNCIL AMENDING REGULATION 60DA OF THE DEFENCE (GENERAL) REGULATIONS, 1939

S. R. & O., 1942, No. 1279

July 1, 1942

* * * *

5. For paragraphs (7) and (8) of Regulation sixty DA of the principal Regulations there shall be substituted the following paragraphs :—

“ (7) The reference in subsection (4) of section four to any grant payable out of any naval, military or air force fund shall include a reference—

(a) where a constable or fireman sustains an injury or contracts a disease while engaged in war work, to any sickness or disablement benefit under the National Health Insurance Acts, 1936 to 1941, any weekly payment or lump sum payment under the Workmen's Compensation Acts, 1925 to 1941, and any pension or injury or other allowance or lump sum payment under the Personal Injuries (Emergency Provisions) Act, 1939, payable in respect of the injury or disease ;

(b) where a constable or fireman dies while engaged in war work, to any pension or allowance payable under the Widows', Orphans' and Old Age Contributory Pensions Acts, 1936 to 1941, in respect of his insurance ;

and, for the purposes of subsection (5) of the said section four, any such lump sum payment is as mentioned in this paragraph shall be deemed to be a gratuity.

(8) Where a person, who has ceased to serve as a constable in such circumstances that section one applies to him and who has, during the period which by virtue of subsection (1) of section two is to be treated in his case as a period of approved service, become a special constable, either—

(a) dies in consequence of an injury received during that period in the execution of his duty as a special constable without his own default, or

(b) after ceasing to serve in His Majesty's forces or to be engaged in war work is, in consequence of any such injury, prevented from resuming his service as a constable,

section four shall not apply in relation to him, but the Police Pensions Act, 1921, as amended by any subsequent enactment, shall apply in relation to him as if at the time of the injury he had been serving, and the injury had been received by him in the execution of his duty, as a constable in the police

force to which he belonged immediately before he ceased to serve as a constable, and as if, in consequence of the injury, he had died while serving in that force, or, as the case may be, had retired from that force on a medical certificate at the end of the said period :

Provided that where the person in question was, at the date of the injury, serving in a police district other than that of the police force to which he belonged immediately before he ceased to serve as a constable, the police authority for the first mentioned police district shall contribute to any pension, allowance or gratuity payable to or in respect of him by virtue of this paragraph such proportion thereof, if any, as the Secretary of State may direct, and such adjustment shall be made in any contributions thereto falling to be made under subsection (2) of section eight of the Police Pensions Act, 1921, as the Secretary of State may direct." [566]

* * * * *

THE POLICE (EMPLOYMENT AND OFFENCES) ORDER, 1942

S. R. & O., 1942, No. 124

January 22, 1942

In pursuance of the powers conferred on me by Regulation 29B of the Defence (General) Regulations, 1939, I hereby order as follows :—

1. Subject as hereinafter provided, any person who is on or after the date of this Order employed as—

- (i) a constable, not being a person appointed under section 3 of the Special Constables Act, 1923, or a person employed by any railway, inland navigation, dock or harbour undertaking,
- (ii) a member of the women's auxiliary police corps, or
- (iii) a member of the police auxiliary messenger service,

is required to continue in his employment until his services are dispensed with in accordance with the provisions of Article 2 of this Order. [567]

2. The services of any person employed as aforesaid may be dispensed with—

- (i) in a case where the person has given notice of his desire that his services should be dispensed with, by the Secretary of State or the chief officer of police ;
- (ii) in any other case, by the Secretary of State or under and in accordance with the provisions of any statute, Order in Council, statutory regulation or rule, or contract of service relating to the employment or with any rule of law by the authority or person having power to terminate the employment. [568]

3. Subject as hereinafter provided, paragraph (1A) of Regulation 29B of the said Regulations (which paragraph relates to disobedience to lawful orders and absence from duty) shall apply to any person employed as aforesaid. [569]

4. This Order shall not apply to a person who is employed as aforesaid part-time only and has not attained eighteen years of age. [570]

5. If—

- (a) any person who has attained the age of eighteen years and is employed as aforesaid part-time only receives a direction under Regulation 58A of the Defence (General) Regulations, 1939, and
- (b) in order that he may be able to comply with that direction, it is necessary that he should go to live at a different place, and

- (c) the place to which he goes to live is so situated in relation to the police district in which he is so employed as aforesaid that it is not reasonably practicable that he should continue to be so employed as aforesaid in that district,

this Order shall, as from the date when he goes to live at that place, cease to apply to him. [571]

6.—(1) This Order may be cited as the Police (Employment and Offences) Order, 1942.

(2) The Police (Employment and Offences) Order, 1941, is hereby revoked.

(3) This Order shall not extend to Scotland. [572]

* * * *

THE POLICE (EMPLOYMENT AND OFFENCES) (NO. 2) ORDER, 1942

S. R. & O., 1942, No. 375

March 3, 1942

In pursuance of the powers conferred on me by Regulation 29B of the Defence (General) Regulations, 1939, I hereby order as follows :—

1. (1) Where the services of any person who is employed as a constable or as a member of the women's auxiliary police corps or of the police auxiliary messenger service, not being a person employed as aforesaid part-time only, are on or after the date of this Order dispensed with in accordance with the provisions of the Police (Employment and Offences) Order, 1942, that person shall, on being served with a notice of recall issued under this Order, be required to return to his employment as a constable or as a member of the women's auxiliary police corps or of the police auxiliary messenger service, as the case may be.

(2) Any such notice of recall as aforesaid shall be issued by the chief officer of police who had under the said provisions power to dispense with the services of the person to whom the notice relates had that person given notice of his desire that his services should be dispensed with.

(3) Any such notice of recall as aforesaid shall be in writing and shall specify the person to whom and the time and place at which the person recalled shall report for duty, and his employment in pursuance of the notice shall, for the purposes of Regulation 29B of the Defence (General) Regulations, 1939, and any Order made under that Regulation, be deemed to commence accordingly.

(4) Any person liable to be served with a notice of recall as aforesaid notify forthwith his address on leaving his employment as a constable shall or as a member of the women's auxiliary police corps or of the police auxiliary messenger service, as the case may be, and any change of address to the chief officer of police having power to recall him, unless he is granted by the chief officer of police exemption in writing.

(5) Any such notice of recall as aforesaid may, without prejudice to any other manner of service, be served by being delivered or sent by post to the person recalled at the last address notified by him under the last foregoing paragraph. [573]

2. This order may be cited as the Police (Employment and Offences) (No. 2) Order, 1942. [574]

* * * *

THE POLICE (EMPLOYMENT AND OFFENCES) (NO. 3) ORDER, 1942

S. R. & O., 1942, No. 1890

September 17, 1942

In pursuance of the powers conferred on me by Regulation 29B of the Defence (General) Regulations, 1939, I hereby order as follows :—

1.—(1) Where the services of any male person who is employed whole-time as a constable are on or after the date of this Order dispensed with in accordance with the provisions of the Police (Employment and Offences) Order 1942, that person shall, on being served with a notice issued under this Order requiring him so to do, become by virtue of that notice and without more a special constable for the police district in which he was so employed and it shall not be necessary for him, notwithstanding anything in any Act or Order in Council, to make any declaration required to be made by him on accepting office as a special constable or to be nominated or appointed by any justices of the peace.

(2) Any such notice as aforesaid shall be issued by the chief officer of police who had under the said provisions power to dispense with the services of the person to whom the notice relates had that person given notice of his desire that his services should be dispensed with.

(3) Any such notice as aforesaid shall be in writing and shall specify the person to whom and the time and place at which the person to whom it relates shall report for duty, and his employment as a special constable in pursuance of the notice shall commence accordingly.

(4) Any such notice as aforesaid may, without prejudice to any other manner of service, be served by being delivered or sent by post to the person to whom it relates at the last address notified by him under paragraph (4) of Article 1 of the Police (Employment and Offences) (No. 2) Order, 1942. [575]

2. Where the services of a person employed as a constable have been dispensed with in accordance with the provisions of the Police (Employment and Offences) Order, 1942, and he is recalled in accordance with Article 1 of the Police (Employment and Offences) (No. 2) Order, 1942, to his employment as a constable, it shall not be necessary for him, notwithstanding anything in any Act or Order in Council, to make any declaration required to be made by him on accepting office as a constable. [576]

3. This Order may be cited as the Police (Employment and Offences) (No. 3) Order, 1942. [577]

* * * * *

THE TEMPORARY CONSTABLES (EMERGENCY) RULES, 1942

S. R. & O., 1942, No. 450

March 9, 1942

In pursuance of the power conferred on me by Regulation 40Ac of the Defence (General) Regulations, 1939, I hereby make the following Rules :—

1. Constables to whom these Rules apply (hereinafter referred to as "constables") shall be appointed by, and shall serve under the directions of, the Chief Officer of Police. [578]

2. Every constable shall carry out all lawful orders and shall at all times punctually and promptly perform all appointed duties and attend to all matters within the scope of his office as a constable. He may be required to do duty at all times, including Sundays and public holidays. [579]

3. The normal daily period for which a constable shall be required to perform his appointed police duties shall be eight hours, exclusive of time occupied in parading for relief, waiting for relief and returning to station after relief. Where duties are performed in one tour of eight hours an interval of 30 minutes for refreshments shall be allowed so far as the exigencies of duty will permit. [580]

4. The normal period of duty may be extended by or under the directions of the Chief Officer of Police on any particular day or for a specified period as respects any constable or constables; and nothing in these Rules shall affect the obligation of any constable to carry out any lawful orders or to attend at any time to any matter to which it is his duty as a constable to attend. [581]

5. When the normal period of duty of any constable is so extended, or he is recalled to do duty after his normal hours, so that his period of duty on any day is more than 12 hours, he shall be granted, if and as soon as the exigencies of duty will permit, time off from duty equal to the period worked over and above 12 hours. [582]

6.—(1) The pay of a constable shall be 74s. weekly and shall commence to accrue on the date on which the constable reports for duty.

(2) A constable shall be entitled to a post-war credit of such an amount and on such conditions as may be specified in directions given by the Secretary of State. [583]

7. A constable who has served as such for six months shall, if and so long as the Chief Officer of Police certifies him to be capable of discharging efficiently the duties of a constable and to be discharging those duties satisfactorily, be entitled to proficiency pay at the rate of 5s. weekly unless deprived of such pay for an offence against discipline. [584]

8. A constable who is not supplied with boots by the Police Authority shall be paid in lieu a boot allowance at the rate of 1s. 6d. weekly. Where boots are supplied a repair allowance not exceeding 1s. a month shall be paid. [585]

9. An allowance may be paid to a constable who regularly uses his bicycle on duty at a rate or rates not exceeding those approved for the police force of which he is a member. [586]

10. A constable who is temporarily employed on normal police duties away from the place at which he is for the time being living may be paid subsistence, lodging and refreshment allowances at the rates authorised for Constables by Regulations 70 and 71 of the Police Regulations. [587]

11. Where a constable is employed on detachment duty and owing to exceptional circumstances cannot be provided with food he may be paid a refreshment allowance at the rate authorised for Constables by Regulation 71 of the Police Regulations. [588]

12. Subject to any qualifying conditions prescribed in directions given by the Secretary of State, a constable who is required to live away from his home shall be paid a lodging allowance of such a weekly amount, if any, not exceeding 24s. 6d. determined in accordance with such directions. [589]

13. No other payment by way of an allowance may be made except with the approval of the Secretary of State. [590]

14.—(1) A constable shall, so far as the exigencies of duty permit, be granted leave of absence (hereinafter referred to as annual leave) at the rate of one day for each complete month of continuous service up to a maximum of twelve days in each complete calendar year, provided that, if the Secretary of State so specially authorises, broken periods of service may, for the purposes of this Rule, be reckoned as continuous.

(2) Annual leave shall be additional to any leave granted by way of rest days and to any leave specially authorised by the Secretary of State. [591]

15.—(1) A constable who complies with the conditions specified in paragraph (2) of this Rule shall, in any period of twelve months, be entitled to sick leave with pay subject to the reduction specified in Rule 17 up to a maximum of thirteen weeks :

Provided that the Chief Officer of Police may deprive a constable of such pay in whole or in part where the sickness is certified by a medical practitioner as being due to, or the injury is suffered by reason of, the constable's own misconduct, neglect or default.

(2) (a) The constable shall report without delay to the Chief Officer of Police or to an officer designated by him for the purpose any sickness necessitating absence from duty, and shall furnish a medical certificate if his absence from duty exceeds two consecutive days, provided that, in any period of twelve months, the periods of absence from duty during which a constable is entitled to pay without furnishing a medical certificate shall not exceed seven days in all.

(b) The constable shall if called upon by the Chief Officer of Police submit himself for examination by the medical officer of the force or other medical practitioner approved by the Police Authority.

(3) Nothing in this Rule shall apply to any period of sickness occasioned by a war service injury. [592]

16.—(1) A constable who sustains a war service injury and is thereby incapacitated for duty shall while so incapacitated be entitled to special leave with pay subject to the reduction specified in Rule 17 for a period or periods not exceeding in the aggregate twenty-six weeks, and such leave shall not be taken into account in calculating the sick leave with pay to which he is entitled under Rule 15.

(2) At the expiration of four weeks of such special leave the constable shall be examined by the medical officer of the force or other medical practitioner appointed or approved by the Police Authority, and

(a) if the medical officer or other practitioner certifies that the constable is likely to be permanently incapacitated for duty, the constable's employment shall be terminated at the expiration of eight weeks of such special leave ; or

(b) if the medical officer or other practitioner certifies that there is a reasonable prospect that the constable will be able to resume duty at some future date the constable shall continue to be entitled to special leave with pay until his employment is terminated in accordance with paragraph (3) of this Rule or until the said period of twenty-six weeks has become exhausted, whichever is the earlier, and the constable shall from time to time at such time or times as the Chief Officer of Police may determine again be examined by such medical officer or other practitioner as aforesaid.

(3) If as the result of any such further examination the medical officer or other practitioner certifies that the constable is likely to be permanently

incapacitated for duty the constable's employment shall be terminated at the expiration of four weeks from the date of the examination. [593]

17. The pay of a constable during a period of sick leave with pay or special leave with pay shall be reduced by the amount of any benefit for which he may have qualified under the National Health Insurance Acts, 1936 to 1939, or by the amount of any payment which may be made to him in respect of the period of leave under any scheme made by the Minister of Pensions under the Personal Injuries (Emergency Provisions) Act, 1939. Any such amount may be deducted from his pay and if not so deducted shall be repaid by the constable to the police fund. [594]

18. Subject to the provisions of paragraphs (2) and (3) of Rule 16, the Chief Officer of Police may terminate the appointment of any constable by giving him not less than one week's notice. [595]

19.—(1) The Chief Officer of Police may suspend from duty a constable against whom a report or complaint suggesting the commission of an offence against discipline is made, or who is charged with a criminal offence, and such suspension from duty may continue until the disciplinary proceedings arising out of such report or complaint, or the criminal proceedings, as the case may be, have been concluded.

(2) A constable who is suspended from duty shall not be entitled in respect of the period of suspension to any pay except as provided in paragraph (3) hereof or to any allowances except the lodging allowance, if any, certified to be due to him under Rule 12.

(3) A constable who is suspended from duty because a report or complaint suggesting the commission of an offence against discipline has been made against him shall be paid a suspension allowance at such rate not less than one half and not exceeding two-thirds of his pay (including proficiency pay) as the Chief Officer of Police may determine.

(4) A constable who is suspended from duty because he has been charged with a criminal offence may, at the discretion of the Chief Officer of Police, be paid a suspension allowance at a rate not exceeding two-thirds of his pay (including proficiency pay) for a period not exceeding four weeks.

(5) A constable who has been suspended from duty and has returned to duty without having been found guilty of any offence may, at the discretion of the Chief Officer of Police, be paid an additional suspension allowance of an amount not exceeding the total of the pay which he would have received during the period of suspension if he had not been suspended from duty less any sums paid to him by way of suspension allowance in respect of that period. [596]

20. The Code of Offences against Discipline set out in Appendix I shall apply with respect to constables, and an offence against discipline shall be dealt with and may be punished in accordance with Appendix II. [597]

21. A constable shall return either on demand or at the termination of his service any equipment, appliance or material issued to him and shall be liable to defray the cost of the replacement or repair, as the case may be, of any such equipment, appliance, or material which is, through his own default, either not returned or consumed destroyed or lost or otherwise becomes defective. [598]

22.—(1) These Rules shall apply to all constables serving as members of the Police War Reserve under the directions of the Chief Officer of Police of any police force in England or Wales to which the Police Act, 1919, applies.

(2) In these Rules the expressions "war injury" and "war service injury" have the meanings respectively assigned to them by section 8 of the Personal Injuries (Emergency Provisions) Act, 1939. [599]

23.—(1) These Rules may be cited as the Temporary Constables (Emergency) Rules, 1942.

(2) The Temporary Constables (Emergency) Rules, 1941, are hereby revoked. [600]

* * * * *

APPENDIX I

Code of Offences against Discipline

Any constable commits an offence against discipline if he is guilty of :—

- (1) Discreditable Conduct, that is to say, if he acts in a disorderly manner or any manner prejudicial to discipline or likely to bring discredit on the reputation of the force or of the Police Service.
- (2) Insubordinate or oppressive conduct, that is to say, if he—
 - (a) is insubordinate by word, act, or demeanour, or
 - (b) uses obscene, abusive or insulting language to any other member of the force, or
 - (c) wilfully or negligently makes any false complaint or statement against any member of the force, or
 - (d) assaults any other member of the force, or
 - (e) overholds any complaint or report against any member of the force.
- (3) Disobedience to Orders, that is to say, if he disobeys or without good and sufficient cause omits or neglects to carry out any lawful order, written or otherwise.
- (4) Neglect of Duty, that is to say, if he—
 - (a) neglects, or without good and sufficient cause omits, promptly and diligently to attend to or carry out anything which is his duty as a constable, or
 - (b) idles or gossips while on duty, or
 - (c) fails to work his beat in accordance with orders, or leaves his beat, point, or other place of duty to which he has been ordered, without due permission or sufficient cause, or
 - (d) by carelessness or neglect permits a prisoner to escape, or
 - (e) fails, when knowing where any offender is to be found, to report the same, or to make due exertions for making him amenable to justice, or
 - (f) fails to report any matter which it is his duty to report, or
 - (g) fails to report anything which he knows concerning a criminal charge, or fails to disclose any evidence which he, or any person within his knowledge, can give for or against any prisoner or defendant to a criminal charge, or
 - (h) omits to make any necessary entry in any official document or book, or
 - (i) neglects, or without good and sufficient cause omits, to carry out any instructions of a Medical Officer of the force, or while absent from duty on account of sickness, is guilty of any act or conduct calculated to retard his return to duty.
- (5) Falsehood or Prevarication, that is to say, if he—
 - (a) knowingly makes or signs any false statement in any official document or book, or
 - (b) wilfully or negligently makes any false, misleading or inaccurate statement, or
 - (c) without good and sufficient cause destroys or mutilates any official document or record, or alters or erases any entry therein.
- (6) Breach of Confidence, that is to say, if he—
 - (a) divulges any matter which it is his duty to keep secret, or
 - (b) gives notice, directly or indirectly, to any person against whom any warrant or summons has been or is about to be issued,

- except in the lawful execution of such warrant or service of such summons, or
- (c) without proper authority communicates to the public press, or to any unauthorised person, any matter connected with the force, or
 - (d) without proper authority shows to any person outside the force any book or written or printed document the property of the Police Authority, or
 - (e) makes any anonymous communication to the Police Authority or the Chief Officer of Police or any superior officer.
- (7) Corrupt Practice, that is to say, if he—
- (a) receives any bribe, or
 - (b) fails to account for or to make a prompt and true return of any money or property received by him in his official capacity, or
 - (c) directly or indirectly solicits or receives any gratuity, present, subscription or testimonial, without the consent of the Chief Officer of Police or the Police Authority, or
 - (d) places himself under pecuniary obligation to any publican, beer-retailer, spirit-grocer, or any person who holds a licence concerning the granting or renewal of which the police may have to report or give evidence, or
 - (e) improperly uses his character and position as a member of the force for his private advantage, or
 - (f) in his capacity as a member of the force, writes, signs or gives, without the sanction of the Chief Officer of Police, any testimonial of character or other recommendation with the object of obtaining employment for any person or of supporting an application for the grant of a licence of any kind, or
 - (g) without the sanction of the Chief Officer of Police, supports an application for the grant of a licence of any kind.
- (8) Unlawful or unnecessary exercise of authority, that is to say, if he—
- (a) without good and sufficient cause makes any unlawful or unnecessary arrest, or
 - (b) uses any unnecessary violence to any prisoner or other person with whom he may be brought into contact in the execution of his duty, or
 - (c) is uncivil to any member of the public.
- (9) Malingering, that is to say, if he feigns or exaggerates any sickness or injury with a view to evading duty.
- (10) Absence without leave or being late for duty, that is to say, if he without reasonable excuse is absent without leave from, or is late for, parade, Court, or any other duty.
- (11) Uncleanliness, that is to say, if he while on duty or while off duty in uniform in a public place is improperly dressed or is dirty or untidy in his person, clothing or accoutrements.
- (12) Damage to clothing or other articles supplied, that is to say, if he—
- (a) wilfully or by carelessness causes any waste, loss or damage to any article of clothing or accoutrement, or to any book, document or other property of the Police Authority, served out to him or used by him or entrusted to his care, or
 - (b) fails to report any loss or damage as above, however caused.
- (13) Drunkenness, that is to say, if he, while on or off duty, is unfit for duty through drink.
- (14) Drinking on duty or soliciting drink, that is to say, if he—
- (a) without the consent of his superior officer, drinks, or receives from any other person, any intoxicating liquor while he is on duty, or
 - (b) demands, or endeavours to persuade any other person to give him, or to purchase or obtain for him, any intoxicating liquor while he is on duty.

- (15) Entering licensed premises, etc., while on duty, that is to say, if he enters, while on duty, any premises licensed under the Liquor Licensing laws, or any other premises where liquors are stored or distributed, when his presence there is not required in the execution of his duty.
- (16) If he lends money to any superior.
- (17) Any constable also commits an offence against discipline, and shall be liable to punishment as provided in these Rules, if he is guilty of an offence which is punishable on conviction, whether summarily or on indictment, or if he connives at or is knowingly an accessory to any offence against discipline under this Code. [601]

APPENDIX II

Disciplinary procedure and punishments

1. An offence against discipline may be punished by—
 - (i) dismissal ;
 - (ii) stoppage of pay (including proficiency pay) ;
 - (iii) reprimand.
2. Dismissal shall take effect forthwith and a constable who is dismissed shall forfeit all rights to pay or any other emolument in respect of any period after his dismissal.
- 3.—(1) A stoppage of pay may be a stoppage of proficiency pay or a stoppage of the pay prescribed by Rule 6 or both, and shall be for a definite period which shall be stated in the order by which the punishment is inflicted.
(2) Proficiency pay may be stopped in whole or in part for such period as the Chief Officer of Police thinks fit.
(3) For any one offence a stoppage of the pay prescribed by Rule 6 shall not be for a period exceeding three months or of a greater amount in any week than 1/7th of such pay.
4. Every constable against whom a report or complaint suggesting the commission of an offence against discipline is made shall, as soon as possible, be informed in writing of the exact charge against him.
5. The written charge must disclose an offence against discipline as defined in the Code of Offences against Discipline, with such details of time and place as will leave the accused under no misapprehension as to the offence with which he is charged.
6. The written charge, which shall be entered on a form provided for the purpose (hereinafter referred to as the Misconduct Form), together with the report or complaint on which the charge is founded, and all reports thereon (whether confidential or otherwise) or copies thereof, shall be handed or sent as soon as practicable to the accused, who shall initial them to show that he has seen them. He shall either be allowed to retain for purposes of his defence the copies of the reports which are handed to him or shall be given a reasonable opportunity to make copies of the reports for that purpose.
7. The accused shall be directed to state in writing upon the Misconduct Form whether he admits or denies the charge and shall be allowed to give any explanation which he may wish to offer in writing. He shall also be allowed to state whether he desires to offer his explanation personally to the Chief Officer of Police, and shall, if he desires it, be given an opportunity of so doing.
8. The accused shall also be allowed to state the names of any witnesses to material facts whom he desires to be present when the charge is heard. Any such witnesses who are members of the police force shall be ordered to attend ; and any witnesses who are not members of the force shall be given due notice that their attendance is desired and of the place and time of the hearing.
- 9.—(1) If the accused denies the charge, he shall, unless the Chief Officer of Police is satisfied with the explanation he has offered, be ordered to appear before the Chief Officer of Police and shall have an opportunity of hearing the evidence against him and of cross-examining the witnesses and of calling witnesses in his defence.

Provided that, if the accused absconds or refuses or neglects without good and sufficient cause to attend the hearing of the charge at the time and place appointed, or is serving a sentence of imprisonment or penal servitude, the case may be decided in his absence.

(2) If the accused so desires, he shall be allowed to have another serving constable selected by himself to assist him in presenting his case.

10. The decision of the Chief Officer of Police shall be written upon the Misconduct Form and at once notified to the accused, who shall write on the Misconduct Form his acknowledgement of his having read the decision.

11. In the case of the Metropolitan Police the procedure in discipline cases shall be as specially approved by the Secretary of State and published in the General Orders of that Force. [602]

THE TEMPORARY CONSTABLES (EMERGENCY) (NO. 2) RULES, 1942

S. R. & O., 1942, No. 2672

December 30, 1942

In pursuance of the power conferred on me by Regulation 40AC of the Defence (General) Regulations, 1939, I hereby make the following Rules :—

1. Paragraph (1) of Rule 6 of the Temporary Constables (Emergency) Rules, 1942, shall be amended by substituting, for the expression “74s.”, the expression “78s. 6d.” [603]

2. These Rules may be cited as the Temporary Constables (Emergency) (No. 2) Rules, 1942. [604]

* * * *

THE POLICE REGULATIONS OF JULY 1, 1942

S. R. & O., 1942, No. 1345

July 1, 1942

I, the Right Honourable Herbert Morrison, one of His Majesty's Principal Secretaries of State, in pursuance of the powers conferred on me by Section 4 of the Police Act, 1919, hereby make the following Regulations amending the Police Regulations :—

1. After Regulation 27 the following Regulation shall be inserted :—

“27B.—(1) During the period of the present emergency a member of a police force who is required to perform the duties of a higher rank may be promoted temporarily to that rank.

(2) A member of a police force who at the date of this Regulation holds a rank to which he had been appointed temporarily shall continue to hold that rank as if he had been promoted temporarily thereto, and for the purpose of increments he shall be deemed to have been promoted temporarily on the date of his temporary appointment.

(3) If, while holding temporary rank under this Regulation, a member of a police force is promoted substantively to that rank, he shall, for the purpose of increments, be deemed to have held the substantive rank as from the date on which he was, or is deemed to have been, promoted temporarily to that rank.

(4) This Regulation shall not apply to a case where a Deputy Chief Constable performs the duties of Chief Constable.” [605]

2.—(1) In paragraph (3) of Regulation 20B the words “temporary appointment allowance” where those words first occur shall be omitted and for the words “his war duty allowance and any temporary appointment allowance which was being paid to him immediately prior to his suspension” there shall be substituted the words “and his war duty allowance”.

(2) In paragraph (3) of Regulation 64A the words “any temporary appointment allowance” shall be omitted.

(3) Regulation 74A is hereby revoked. [606]

* * * *

THE POLICE (WOMEN) REGULATIONS OF JULY 1, 1942

S. R. & O., 1942, No. 1346

July 1, 1942

I, the Right Honourable Herbert Morrison, one of His Majesty's Principal Secretaries of State, in pursuance of the powers conferred on me by Section 4 of the Police Act, 1919, hereby make the following Regulations amending the Police (Women) Regulations :—

1. After Regulation 20 the following Regulation shall be inserted :—

“20A.—(1) During the period of the present emergency a woman member of a police force who is required to perform the duties of a higher rank may be promoted temporarily to that rank.

(2) A woman member of a police force who at the date of this Regulation holds a rank to which she had been appointed temporarily shall continue to hold that rank as if she had been promoted temporarily thereto, and for the purpose of increments she shall be deemed to have been promoted temporarily on the date of her temporary appointment.

(3) If, while holding temporary rank under this Regulation, a woman member of a police force is promoted substantively to that rank, she shall, for the purpose of increments, be deemed to have held the substantive rank as from the date on which she was, or is deemed to have been, promoted temporarily to that rank.” [607]

2.—(1) In paragraph (3) of Regulation 14B the words “temporary appointment allowance” where those words first occur shall be omitted and for the words “her war duty allowance and any temporary appointment allowance which was being paid to her immediately prior to her suspension” there shall be substituted the words “and her war duty allowance”.

(2) In paragraph (3) of Regulation 56A the words “any temporary appointment allowance” shall be omitted.

(3) Regulation 64A is hereby revoked. [608]

* * * *

THE DEFENCE (AMALGAMATION OF POLICE FORCES) REGULATIONS, 1942

S. R. & O., 1942, No. 1443

July 23, 1942

His Majesty, in pursuance of the Emergency Powers (Defence) Acts, 1939 and 1940, and of all other powers enabling Him in that behalf, is pleased,

by and with the advice of His Privy Council, to order, and it is hereby ordered, that the following Regulations shall have effect :—

1.—(1) The Secretary of State may by order provide for the amalgamation of the police forces for two or more areas to which these Regulations apply, if he is satisfied that the amalgamation is necessary for facilitating naval, military or air force operations.

(2) Any such order shall provide—

- (a) for the combination of the existing police areas to which it applies (hereafter in these Regulations referred to as “constituent areas”) into one police area (hereafter so referred to as the “joint area”), and for the establishment of a single police force for the joint area (hereafter so referred to as the “joint force”);
- (b) subject to paragraph 3 of Part II of the First Schedule to these Regulations, for the transfer, by virtue of the order, of all the members of the police forces for the constituent areas (hereafter in these Regulations referred to as “constituent forces”) to the joint force;
- (c) for the appointment as the first chief constable of the joint force of such person, being a member of a police force, as may be specified in the order, so, however, that the chief constable of one of the constituent forces shall be appointed, unless the Secretary of State, having regard to any exceptional circumstances, considers that no chief constable of a constituent force is suitable for the appointment;
- (d) for the maintenance of the joint force by an authority (hereafter in these Regulations referred to as the “joint authority”), being either—
 - (i) the police authority for one of the constituent areas (hereafter so referred to as a “constituent authority”) whether with or without the addition of representatives of the other constituent areas; or
 - (ii) a new authority constituted in accordance with the order; and, in a case where the joint authority is a new authority, for the appointment of a clerk of that authority;
- (e) for the payment of the expenses of the joint force and the joint authority out of a fund (hereafter in these Regulations referred to as the “joint force fund”), being either—
 - (i) the local fund of one of the constituent areas; or
 - (ii) a new fund established and administered in accordance with the order; and, in a case where the joint force fund is a new fund, for the appointment of a treasurer of that fund;
- (f) for the payment into the joint force fund out of the local funds of the constituent areas (or, in a case where the joint force fund is the local fund of one of those areas, out of the local funds of the remainder of those areas), of contributions assessed in accordance with the order in respect of the liabilities imposed on the joint force fund by or under these Regulations;
- (g) for enabling the joint authority to take and use for the purposes of the joint force any property which, immediately before the date of amalgamation, was used or appropriated or intended for use for the purpose of any constituent force, and to deal with any such property as if it belonged to the joint authority, so, however, that the joint authority shall not have power to sell, exchange, lease or charge any land taken by virtue of this sub-paragraph;

and may provide for any matter which appears to the Secretary of State to be necessary or expedient for carrying the amalgamation into effect.

[609]

2.—(1) If within three months from the date of amalgamation—

(a) the constituent authorities submit to the Secretary of State an agreement made between them as respects the constitution of the joint authority ;

(b) the councils of the constituent areas submit to the Secretary of State an agreement made between them as respects the apportionment between the local funds of those areas of the liabilities imposed on the joint force fund by or under these Regulations ;

the Secretary of State shall by order make such amendments of the amalgamation order as appear to him to be necessary to give effect to the agreement.

(2) The Secretary of State may at any time, after consultation with the joint authority, by order revoke or vary any order made under these Regulations :

Provided that any order made to give effect to an agreement made under paragraph (1) of this Regulation shall not be revoked or varied except for the purpose of giving effect to a further agreement between the same parties.

[610]

3.—Where an amalgamation order is made constituting a county joint area, and the police force for a borough has, by virtue of an agreement made under section fourteen of the County Police Act, 1840, been consolidated with the police force of a county comprised in the joint area, the following provisions shall have effect :—

(a) the joint authority, in a case where it is not the standing joint committee for the county, shall be substituted for that committee as a party to the agreement ;

(b) the Secretary of State may, after consultation with the councils of the county and the borough, by order make such modifications of the agreement as he thinks necessary or expedient to adapt its provisions to the provisions of the amalgamation order ;

(c) in a case where the borough is a county borough, the borough shall be deemed to be a constituent area, and the council thereof to be a constituent authority, for the purposes of sub-paragraphs (d) and (f) of paragraph (2) of Regulation one and paragraph (1) of Regulation two of these Regulations ;

(d) save as aforesaid, nothing in the amalgamation order or these Regulations shall affect the agreement and, for the purpose of that order and these Regulations, the borough shall, notwithstanding that it is a county borough, be treated as if it formed part of the county, and the consolidated force as if it were the police force for the county.

[611]

4.—(1) Subject to the provisions of the next following paragraph, the areas to which these Regulations apply are—

(a) counties within the meaning of the Local Government Act, 1933 (exclusive of any borough within the meaning of that Act which maintains a separate police force) ; and

(b) boroughs within the meaning of that Act which maintain separate police forces.

(2) A joint area constituted by an amalgamation order shall be included among the areas to which these Regulations apply :

Provided that, where an amalgamation order is made combining a joint

area (hereafter in this proviso referred to as the "existing joint area") with any other area to which these Regulations apply—

- (a) the following provisions of these Regulations shall have effect, in relation to the order, as if the existing joint area were not, and as if each of the constituent areas combined in the existing joint area were, a constituent area, namely, sub-paragraph (f) of paragraph (2) of Regulation one, sub-paragraph (b) of paragraph (1) of Regulation two, paragraph 12 of Part I of the First Schedule and paragraph 12 of the Second Schedule; and
 - (b) the order may provide for the winding up of the joint force fund of the existing joint area and the transfer of its assets and liabilities to the joint force fund of the joint area constituted by the order.
- [612]

5.—(1) The provisions of Part I of the First Schedule to these Regulations shall have effect for the purpose of adapting enactments (including regulations, orders and other instruments having effect by virtue of an enactment) to the provisions of these Regulations and orders made thereunder.

(2) The transitional provisions set out in Part II of the said Schedule shall have effect for the purpose of supplementing amalgamation orders and carrying them into effect.

(3) A warrant issued by a justice of the peace having jurisdiction within a joint area may, notwithstanding anything in any enactment, be directed generally to the constables of the joint force; and where a warrant or order of detention issued by any such justice of the peace is directed to constables of a county or borough comprised in a joint area, the warrant or order shall have effect as if it had been directed to the constables of the joint force.

[613]

6.—(1) For the purpose of these Regulations the following expressions have the following meanings—

"amalgamation order" means an order made under Regulation one of these Regulations;

"borough joint area" means a joint area which consists entirely of boroughs;

"county joint area" means a joint area which does not consist entirely of boroughs;

"date of amalgamation", in relation to an amalgamation order, means the date on which the order comes into operation;

"local fund", in relation to a county, means the county fund and, in relation to a borough, means the general rate fund;

"police authority" means—

(i) in relation to a county, the standing joint committee for the county;

(ii) in relation to a borough, the watch committee;

(iii) in relation to a joint area, the joint authority;

"standing joint committee", in relation to a county, means the standing joint committee of the quarter sessions of the county and the county council.

(2) The Interpretation Act, 1889, applies to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

[614]

7. In the application of these Regulations to Scotland the following modifications shall be made:—

- (a) for the expressions "borough" and "borough joint area" there shall be respectively substituted the expressions "burgh" and "burgh

joint area " and any reference to the standing joint committee shall be construed as a reference to the county council ;

- (b) Regulation three shall have effect as if the words in paragraph (c) " in a case where the borough is a county borough ", and the words in paragraph (d) " notwithstanding that it is a county borough ", were omitted ;
- (c) paragraph (1) of Regulation four shall have effect as if the references to the Local Government Act, 1933, were omitted ;
- (d) for Part I of the First Schedule to these Regulations there shall be substituted the Second Schedule thereto ;
- (e) for paragraph 7 of Part II of the First Schedule there shall be substituted the following paragraph—

" 7. Where before the date of amalgamation a member of any constituent force is entitled to appeal to a Secretary of State under the Police (Appeals) Act, 1927, or has appealed to a Secretary of State under that Act and the appeal has not been determined, the chief constable of the joint force shall be the respondent for the purposes of the appeal." ;

- (f) for any reference to the general rate fund of a borough there shall be substituted a reference to the burgh fund of a burgh and expenditure incurred in making payments out of a county or burgh fund in pursuance of an order made under these Regulations shall be defrayed in like manner as expenditure for the administration of the police ;
- (g) the expression " police authority " means, in relation to a county, the county council, and in relation to a burgh, the town council ;
- (h) for references to the Special Constables Act, 1831, and to the County Police Act, 1839, there shall be respectively substituted references to the Special Constables (Scotland) Act, 1914, and to the Police (Scotland) Act, 1857 ; for references to section fourteen of the County Police Act, 1840, there shall be substituted references to section sixty-one of the Police (Scotland) Act, 1857 ; and for references to sections one hundred and ninety-one and one hundred and ninety-six of the Municipal Corporations Act, 1882, there shall be respectively substituted references to sections seventy-eight and ninety-six of the Burgh Police (Scotland) Act, 1892, or any similar provision in a local Act. [615]

8.—(1) These Regulations may be cited as the Defence (Amalgamation of Police Forces) Regulations, 1942.

(2) These Regulations shall not extend to Northern Ireland. [616]

FIRST SCHEDULE

ADAPTATION OF ENACTMENTS AND TRANSITIONAL PROVISIONS

PART I

ADAPTATION OF ENACTMENTS

1.—(1) Subject to the provisions of this Schedule, any reference in any enactment to a police area or police district shall be construed as including a reference to a joint area, and any reference in any enactment to a police force shall be construed as including a reference to a joint force, and, in relation to a joint area or joint force—

- (a) any reference in any enactment to the chief officer of police shall be construed as a reference to the chief constable of the joint force ;
- (b) any reference in any enactment to the police authority shall be construed as a reference to the joint authority ; and

(c) any reference in any enactment to the police fund shall be construed as a reference to the joint force fund.

(2) In this paragraph the expression "enactment" includes a regulation, order or other instrument having effect by virtue of an enactment.

2.—(1) Subject to the provisions of this Schedule, any enactment, if and in so far as it relates to county police (including special constables), shall apply to a county joint area as it applies to a county, with the substitution, for references to any term mentioned in the first column of the following Table, of references to the term set out opposite that term in the second column of that Table :—

Reference	TABLE	Term substituted
Clerk of the peace of the county or clerk of the county council.		Clerk of the joint authority of the county joint area.
County fund		Joint force fund.
Justice of the peace for the county ...		Justice of the peace having jurisdiction in the county joint area.
Treasurer of the county		Treasurer of the joint force fund of the county joint area.
Standing joint committee for the county, or any term a reference to which is, by virtue of the Local Government Act, 1888, to be construed as a reference to that committee.		Joint authority for the county joint area.

(2) Subject to the provisions of this Schedule, any enactment, if and in so far as it relates to borough police (including special constables), shall apply to a borough joint area as it applies to a borough, with the substitution—

(a) for references to the watch committee, of references to the joint authority for the borough joint area; and

(b) for references to the borough fund or general rate fund, of references to the joint force fund.

(3) In this paragraph the expression "enactment" includes a regulation, order or other instrument having effect by virtue of an enactment.

3.—(1) The reference in section eight of the County Police Act, 1839, as amended by the foregoing provisions of this Schedule, to a county adjoining a county or county joint area for which a chief constable or other constable is appointed shall include a reference to a county joint area so adjoining.

(2) References in subsection (2) of section one hundred and ninety-one of the Municipal Corporations Act, 1882, to a county shall include references to a county joint area.

4. Section fourteen of the County Police Act, 1840, and section five of the County and Borough Police Act, 1856, shall apply in relation to a borough joint area with the substitution, for references to the council of the borough, of references to the councils of all the boroughs comprised in the joint area, and references to the mayor, aldermen and burgesses of the borough in section fourteen of the County Police Act, 1840, and to the mayor in section fifteen of that Act, shall be construed accordingly.

5. Special constables shall not be appointed under the Special Constables Act, 1831, or section one hundred and ninety-six of the Municipal Corporations Act, 1882, for any county or borough comprised in a joint area, but any appointment of a special constable under those Acts as amended by this Schedule shall be made for the whole of the joint area.

6. Section eleven of the Police (Scotland) Act, 1857, shall have effect as if the references therein to the border counties of Northumberland and Cumberland included references respectively to a joint area comprising Northumberland and a joint area comprising Cumberland.

7. Section twenty-four of the County and Borough Police Act, 1859, shall have effect as if the reference to the police rate included a reference to the joint force fund.

8. The Police (Weekly Rest-Day) Act, 1910, shall apply to a joint authority for a joint area as it applies to the police authority of a county or borough.

9. Paragraph 12 of the Schedule to the Police Act, 1919, shall have effect as if the references therein to county police forces and borough police forces included respectively references to joint forces for county joint areas and joint forces for borough joint areas.

10.—(1) The court of quarter sessions to which an application may be made under subsection (1) of section seventeen of the Police Pensions Act, 1921, by a person aggrieved by a decision of a joint authority shall be—

- (a) in the case of a county joint area, the court of quarter sessions for the county constituting, or any county comprised in, the joint area ;
- (b) in the case of a borough joint area, the court of quarter sessions for any borough comprised in the joint area or, if no borough so comprised has a separate court of quarter sessions, the court of quarter sessions for the county in which the joint area or any part thereof is situated.

(2) The powers of a police authority which, under proviso (a) to section thirty of the said Act of 1921, are exercisable by a county council shall not be so exercisable where the police authority is a joint authority unless the county fund of that county council is the joint force fund.

(3) Proviso (b) to the said section thirty shall not apply with respect to contributions required to be paid by an amalgamation order ; and proviso (c) to that section shall not apply with respect to powers conferred on the joint authority of a borough joint area.

11. References to an enactment in subsection (2) of section one hundred and eighty-four and proviso (a) to subsection (2) of section one hundred and eighty-seven of the Local Government Act, 1933, shall include references to an order made under these Regulations, and paragraph 5 of Part II of the Fifth Schedule to the Municipal Corporations Act, 1882, shall not apply to any payments required to be made by any such order.

12. Employees of the joint authority of such classes as may be specified in an order made by the Secretary of State shall be admitted, on such terms and conditions as may be so specified, to participate—

- (a) in the case of a person who, immediately before he became an employee of the joint authority, was entitled to participate in the benefits of a superannuation fund wholly or partly maintained under Part I of the Local Government Superannuation Act, 1937, by the council of one of the constituent areas, in the benefits of that fund ; and
- (b) in any other case, in the benefits of the superannuation fund so maintained by the council of such of the constituent areas as may be specified in the order ;

and the said Act shall have effect in relation to the joint authority and any employee so admitted as if the joint authority were a local authority and the employee were a contributory employee, and the joint authority shall have all such powers as may be necessary for the purpose of giving effect to the terms and conditions aforesaid.

PART II

TRANSITIONAL PROVISIONS

1. The chief constable of a joint force appointed by an amalgamation order and the constables transferred to the joint force by virtue of such an order shall be deemed—

- (a) in the case of a joint force for a county joint area, to have been duly appointed under the County Police Act, 1839, as amended by any subsequent enactment including this Schedule ; and
- (b) in the case of a joint force for a borough joint area, to have been duly appointed under section one hundred and ninety-one of the Municipal Corporations Act, 1882, as so amended ;

and shall be deemed to have been duly attested as members of the joint force.

2. Any person appointed before the date of amalgamation to be a special constable for a constituent area shall, if serving as such immediately before that date, be deemed—

- (a) in a case where the joint area is a county joint area, to have been appointed a special constable for the joint area under the Special Constables Act, 1831, as amended by any subsequent enactment including this Schedule; and
- (b) in a case where the joint area is a borough joint area, to have been appointed a special constable for the joint area under section one hundred and ninety-six of the Municipal Corporations Act, 1882, as so amended;

and shall be deemed to have been duly attested as a special constable for the joint area.

3. The following provisions shall have effect as respects the chief constable of a constituent force who is not appointed the first chief constable of the joint force and does not, before the date of amalgamation, agree to be transferred to the joint force in some other capacity:—

- (a) he shall be deemed to have retired from the constituent force, on the date of amalgamation;
- (b) for the three months beginning with the date of amalgamation or, if during those three months he joins the joint force, for the period beginning with the date of amalgamation and ending with the date next before the date on which he joins that force, he shall be entitled to be paid out of the joint force fund a salary and emoluments at the same rate as the salary and emoluments which he was receiving immediately before the date of amalgamation;
- (c) if during the said three months he joins the joint force, he shall be deemed for the purposes of the Police Pensions Act, 1921, as amended by any subsequent enactment, to have served in the joint force during the period for which he is in receipt of a salary under the last foregoing sub-paragraph;
- (d) if during the said three months he does not join the joint force, there shall, at the expiration of the said three months, be payable out of the joint force fund to him or, in the event of his death, to his wife, children or other dependent relatives, such pension, gratuity or allowance, and on such terms, as the Secretary of State may direct, so, however, that the amount of the pension, gratuity or allowance, in a case where he would have been entitled to retire with the consent of the police authority at the expiration of the said three months without a medical certificate and receive an ordinary pension for life, shall not be less than it would have been if he had so retired;
- (e) without prejudice to the application of any other provision of the Police Pensions Act, 1921, by directions given under the last foregoing sub-paragraph, any reference in section fourteen of that Act to a pension, allowance or gratuity shall include a reference to a pension, allowance or gratuity, as the case may be, payable by virtue of that sub-paragraph.

4. Subject to the provisions of paragraph 7 of this Part of this Schedule, anything done before the date of amalgamation by, to or before a constituent authority or a chief constable of a constituent force shall, in so far as it would have required or authorised some other thing to be done after that date by, to or before that authority or chief constable, be deemed to require or authorise that other thing to be done by, to or before the joint authority or the chief constable of the joint force.

5. Anything done before the date of amalgamation by, to or before a constituent authority or a chief constable of a constituent force in relation to a constituent area shall, in so far as it would have continued to have effect after that date in relation to that area by reason that it was done by, to or before the police authority or chief officer of police for that area, continue to have the like effect in relation to the joint area as if it had been done by, to or before the joint authority or the chief officer of police of the joint force.

6. Any register kept in pursuance of any enactment by the chief constable of a constituent force shall be transferred by him to the chief constable of the joint force as soon as may be after the date of amalgamation, and as from that date shall be deemed to form part of the corresponding register kept for the joint area by the chief constable of the joint force.

7.—(1) Where the amalgamation order constitutes a county joint area, and any matter has arisen before the date of amalgamation which affects a member of a constituent force, being a borough police force, and, on that date, under paragraph (2) of regulation 20 of the Police Regulations of 20th August, 1920, as subsequently

amended, is awaiting determination by the watch committee or entitles him to appear before that committee, then, as from that date, that paragraph shall apply with respect to that matter as if the chief constable of the joint force were substituted for the watch committee.

(2) Where before the date of amalgamation a member of a constituent force is entitled to appeal to a Secretary of State under the Police (Appeals) Act, 1927, or has appealed to a Secretary of State under that Act but the appeal has not been determined, then—

(a) in a case where the joint area is a county joint area, the chief constable of the joint force ; and

(b) in a case where the joint area is a borough joint area, the joint authority ; shall be the respondent for the purposes of the appeal, or, if some other authority has previously been made respondent, shall be substituted as respondent for that other authority.

8.—(1) Where the amalgamation order provides for the maintenance of the joint force by one of the constituent authorities and, immediately before the date of amalgamation, there are in force regulations made by that authority in pursuance of any enactment or Order in Council—

(a) those regulations shall continue in force and have effect throughout the joint area as if they had been duly made for that area in pursuance of that enactment or Order in Council ; and

(b) any regulations made in pursuance of that enactment or Order in Council by any other constituent authority and in force immediately before the said date shall cease to have effect on that date.

(2) Where the amalgamation order does not provide as aforesaid—

(a) any regulations made by a constituent authority under section five of the Police, Factories, etc. (Miscellaneous Provisions) Act, 1916, which are in force as respects the area of that authority immediately before the date of amalgamation, shall continue in force as respects that area after that date, but may be revoked by regulations made after that date by the joint authority for the joint area ;

(b) any regulations made by a constituent authority under section twenty-three of the Police Pensions Act, 1921, shall cease to have effect on the date of amalgamation, and the joint authority shall, as soon as may be, make regulations for the joint area under that section which shall be deemed to have come into force on that date ;

(c) any regulations made by a constituent authority under Article 6 of the Special Constables Order, 1923, shall cease to have effect, without prejudice to the power of the joint authority to make new regulations under that Article.

(3) Subsection (2) of section thirty-eight of the Interpretation Act, 1889, shall, in relation to any regulations ceasing to have effect by virtue of this paragraph, apply as if the regulations had been an enactment and had been repealed by an Act of Parliament.

9. For the purposes of the Police Pensions Act, 1921, as from the date of amalgamation—

(a) service in a constituent force shall be treated as service in the joint force ; and

(b) any pension, allowance or gratuity granted by a constituent authority under the said Act before the date of amalgamation to a member of a constituent force or his widow, child or other dependent relative shall be treated as if it had been granted by the joint authority and shall be payable out of the joint force fund accordingly.

10. The Secretary of State may by order provide for —

(a) the payment out of the joint force fund of any moneys required to discharge liabilities incurred before the date of amalgamation by a constituent authority, or the council of a constituent area, for police purposes ;

(b) the transfer to the joint authority of the benefits and obligations, in so far as they relate to police purposes, of any contract made before that date by a constituent authority or the council of a constituent area, either by substituting the joint authority for the constituent authority or the council as a party to the agreement or otherwise. [617]

SECOND SCHEDULE

ADAPTATION OF ENACTMENTS APPLYING TO SCOTLAND

1.—(1) Subject to the provisions of this Schedule, any reference in any enactment to a police area or police district shall be construed as including a reference to a joint area, and any reference in any enactment to a police force shall be construed as including a reference to the joint force, and, in relation to a joint area or joint force—

- (a) any reference in any enactment to the chief officer of police shall be construed as a reference to the chief constable of the joint force ;
- (b) any reference in any enactment to the police authority shall be construed as a reference to the joint authority ; and
- (c) any reference in any enactment to the police fund shall be construed as a reference to the joint force fund.

(2) In this paragraph the expression "enactment" includes a regulation, order or other instrument having effect by virtue of an enactment.

2.—(1) Subject to the provisions of this Schedule, any enactment, if and in so far as it relates to county police (including special constables), shall apply to a county joint area as it applies to a county with the substitution for references to any term mentioned in the first column of the following table of references to the term set out opposite to that term in the second column of that table :—

TABLE					
<i>Reference</i>					<i>Term substituted</i>
County Clerk	...	...	...	...	Clerk of the joint authority for the county joint area.
County Treasurer	...	...	...	...	Treasurer of the joint force fund of the county joint area.
County Council	...	...	...	...	Joint authority for the county joint area.
Joint County Council	...	...	...	...
Police Committee of the County Council.					
Justice of the Peace for the County	...			...	Justice of the Peace having jurisdiction in the county joint area.
General or Quarter Sessions	...		...	...	Meeting convened for the purpose of functions relating to the county joint force.

(2) Subject to the provisions of this Schedule any enactment, if and in so far as it relates to burgh police (including special constables), shall apply to a burgh joint area as it applies to a burgh with the substitution for references to the town council or other body charged with the administration of the police of references to the joint authority for the burgh joint area.

(3) In this paragraph the expression "enactment" includes a regulation, order or other instrument having effect by virtue of an enactment.

3. References in section eleven of the Police (Scotland) Act, 1857, or in section eighty of the Burgh Police (Scotland) Act, 1892, or in any similar provision in a local Act, to a county and a burgh shall include respectively references to a county joint area and a burgh joint area.

4. Sections sixty-one and sixty-three of the Police (Scotland) Act, 1857, shall apply in relation to a burgh joint area with the substitution for references to the magistrates and town council of the burgh of references to the town councils of all the burghs comprised in the joint area.

5. Special constables shall not be appointed under section ninety-six of the Burgh Police (Scotland) Act, 1892, or under any local Act, or under the Special Constables (Scotland) Act, 1914, for any burgh or county comprised in a joint area and any appointment of a special constable under those Acts as amended by this Schedule shall be made by the joint authority for the whole of the joint area.

6. Section eleven of the Police (Scotland) Act, 1857, shall have effect as if references therein to the border counties of Berwick, Roxburgh, and Dumfries included references to a joint area comprising any one of those counties.

7. The Police (Weekly Rest-Day) (Scotland) Act, 1914, shall apply to the joint authority of a county joint area in like manner as it applies to the police authority of a county and to the joint authority of a burgh joint area in like manner as it applies to the police authority of a burgh.

8. The power conferred by subsection (1) of section thirteen of the Police Act, 1919, on the Secretary of State to prescribe modifications of the Schedule of that Act in its application to Scotland shall include power to prescribe such modifications as may be necessary by reason of any amalgamation of police forces in pursuance of these Regulations.

9. An application under subsection (1) of section seventeen of the Police Pensions Act, 1921, as applied to Scotland by paragraph (c) of subsection (1) of section thirty-four of that Act, by a person aggrieved by a decision of a joint authority may be made to any sheriff having jurisdiction in any part of the joint area where such person last served as a member of a police force.

10. The reference in subsection (1) of section seventy-five of the Local Government (Scotland) Act, 1889, to an Act of Parliament shall include a reference to an order made under these Regulations.

11. The sheriff by whom any inquiry and report in pursuance of section two of the Police (Appeals) Act, 1927, is to be made shall in the case of a joint area which is situated in two or more sheriffdoms be the sheriff of such one of those sheriffdoms as the Secretary of State may appoint.

12. Employees of the joint authority of such classes as may be specified in an order made by the Secretary of State shall be admitted, on such terms and conditions as may be so specified, to participate—

(a) in the case of a person who, immediately before he became an employee of the joint authority, was entitled to participate in the benefits of a superannuation fund wholly or partly maintained under Part I of the Local Government Superannuation (Scotland) Act, 1937, or under a local Act, by the council of one of the constituent areas, in the benefits of that fund ; and

(b) in any other case in the benefits of the superannuation fund so maintained by the council of such of the constituent areas as may be specified in the order ;

and the said Act, shall have effect in relation to the joint authority and any employee so admitted as if the joint authority were a local authority, and the employee were a contributory employee, and the joint authority shall have all such powers as may be necessary for the purpose of giving effect to the terms and conditions aforesaid. [618]

THE POLICE REGULATIONS OF AUGUST 31, 1942

S. R. & O., 1942, No. 1808

August 31, 1942

I, the Right Honourable Herbert Morrison, one of His Majesty's Principal Secretaries of State, in pursuance of the powers conferred on me by section 4 of the Police Act, 1919, hereby make the following Regulations amending the Police Regulations :—

1. For paragraph (1) of Regulation 64A there shall be substituted the following paragraph :—

“(1) *As from 1st June, 1942, there shall be paid to every constable a supplementary allowance of 13s. 6d. a week.*” [619]

2. In paragraph (2) of Regulation 64A for the words “1st September, 1941” there shall be substituted the words “1st June, 1942” ; for the figure “5s.” there shall be substituted the figure “7s. 6d.” ; and for the figure

"£513" wherever that figure occurs there shall be substituted the figure "£519 10s." [620]

3. In Regulation 64B after the words "*3s. a week and*" there shall be inserted the words "*as from 1st June, 1942,*"; and for the figure "4s." there shall be substituted the figure "5s." [621]

* * * *

THE POLICE (WOMEN) REGULATIONS OF AUGUST 31, 1942

S. R. & O., 1942, No. 1809

August 31, 1942

I, the Right Honourable Herbert Morrison, one of His Majesty's Principal Secretaries of State, in pursuance of the powers conferred on me by section 4 of the Police Act, 1919, hereby make the following Regulations amending the Police (Women) Regulations :—

1. For paragraph (1) of Regulation 56A there shall be substituted the following paragraph :—

“(1) *As from 1st June, 1942, there shall be paid to every woman constable a supplementary allowance of 10s. a week.*” [622]

2. In paragraph (2) of Regulation 56A for the words "*1st September, 1941*" there shall be substituted the words "*1st June, 1942*"; for the figure "4s." there shall be substituted the figure "6s."; and for the figure "£510 8s." wherever that figure occurs there shall be substituted the figure "£515 12s." [623]

3. In Regulation 56B after the words "*2s. 6d. a week and*" there shall be inserted the words "*as from 1st June, 1942,*"; and for the figure "3s." there shall be substituted the figure "4s." [624]

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THE SPECIAL CONSTABLES ORDER, 1942

S. R. & O., 1942, No. 1904

September 17, 1942

* * * *

Whereas by the Special Constables Act, 1914, as amended by the Special Constables Act, 1923, power is conferred on His Majesty, by Order in Council, to make Regulations with respect to the appointment and position of special constables appointed under the Special Constables Act, 1831, or under section one hundred and ninety-six of the Municipal Corporations Act, 1882, and by these Regulations to make such provisions as are mentioned in the said Special Constables Act, 1914, as so amended :

Now, therefore, His Majesty is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :—

1. Where a constable ceases to serve as such in such circumstances that section one of the Police and Fireman (War Service) Act, 1939, as extended by the Defence (General) Regulations, 1939, applies to him, and, during the period which by virtue of subsection (1) of section two of the said Act as so extended is treated as a period of approved service in his case, he becomes as special constable, then—

- (a) subsection (1) of paragraph 11 of the Special Constables Order, 1923, shall not in his case have effect as respects any infirmity occasioned by an injury received or illness contracted during the said period, and
- (b) if after the end of that period he continues to be a special constable by virtue of his appointment during that period, the date of that appointment shall for the purposes of subsection (2) of the said paragraph 11 be taken to be the date of the end of that period.

[625]

2.—(1) For paragraph 7 of the Special Constables Order, 1923, there shall be substituted the following paragraph :—

7.—(1) There may be paid to special constables by the Police Authority out of the police fund sums by way of—

- (a) reimbursement of out of pocket expenses necessarily incurred in the execution of duty or an allowance in lieu thereof,
- (b) an allowance in consideration of wages lost by a special constable while required for duty or during a period of temporary incapacitation for following his ordinary employment by infirmity of mind or body occasioned by an injury received in the execution of his duty without his own default or by illness contracted in the execution of his duty without his own default, and
- (c) allowances in respect of such other matters as the Secretary of State may approve :

Provided that any allowance so paid shall be of such amount and subject to such conditions as the Secretary of State may from time to time approve.

(2) Except as expressly provided in this paragraph or the Special Constables Order, 1940, a special constable shall not be entitled to any remuneration in respect of his services as such.

(2) The reference in paragraph 1 of the Special Constables Order, 1940, to paragraph 7 of the Special Constables Order, 1923, shall be construed as a reference to the paragraph substituted therefor by this Order. [626]

3. This Order may be cited as the Special Constables Order, 1942. [627]

PUBLIC SERVICE VEHICLES

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ORDERS, CIRCULARS AND MEMORANDA

THE STANDING PASSENGERS (AMENDMENT) ORDER, 1942

S. R. & O., 1942, No. 2

January 3, 1942

In exercise of his powers under Regulation 70 of the Defence (General) Regulations, 1939, and of all other powers enabling him in that behalf, the Minister of War Transport hereby orders as follows :—

1. Article 3 of the Standing Passengers (No. 3) Order, 1941, shall be amended by the insertion of the words "and that no standing passengers shall be carried by virtue of the provisions of this Order if there is any vacant seat in the vehicle" after the words "of a vehicle". [628]

2. This Order may be cited as The Standing Passengers (Amendment) Order, 1942. [629]

* * * * *

THE SOUTHEND-ON-SEA CORPORATION (TROLLEY VEHICLES) ORDER, 1942

S. R. & O., 1942, No. 126

January 24, 1942

In virtue of his powers under Regulations 54B and 56 of the Defence (General) Regulations, 1939, and of all other powers enabling him in that behalf the Minister of War Transport hereby orders and directs as follows:—

1. Subject to the conditions and restrictions specified in paragraph 2 hereof, the Mayor, Aldermen and Burgesses of the Borough of Southend-on-Sea (hereinafter called "the Corporation")—

(1) shall provide, maintain and equip the trolley vehicle route in the Borough of Southend-on-Sea hereunder described, namely—

A route (135 yards or thereabouts in length) commencing in London Road at its junction with Leigh Road by a junction with the trolley vehicle route authorised by the Southend-on-Sea Corporation (Trolley Vehicles) Order, 1939, thence proceeding along London Road and Nelson Road and terminating at the junction of Nelson Road with Wellington Avenue by a junction with the trolley vehicle route authorised by the Southend-on-Sea Corporation Act, 1930,

(2) shall operate a service of trolley vehicles on the said route as part of their trolley vehicle undertaking, and shall in respect of the vehicles used on such service be exempt from any statutory obligations or restrictions from which they are exempt in respect of their trolley vehicle undertaking. [630]

2.—(1) The said route shall not be opened for public traffic until the Corporation have satisfied the Minister of War Transport that it is fit for such traffic.

(2) The conditions and restrictions contained in Part III of the Southend-on-Sea Corporation Act, 1930, shall apply to the said route and service as if they were enumerated in this Order.

(3) The regulations and byelaws applicable to the existing trolley vehicle services of the Corporation shall apply to the said service.

(4) Nothing in this Order shall be deemed to authorise the Corporation to manufacture trolley vehicles. [631]

3. This Order may be cited as the Southend-on-Sea Corporation (Trolley Vehicles) Order, 1942. [632]

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THE PUBLIC SERVICE VEHICLES (EQUIPMENT AND USE) (AMENDMENT) PROVISIONAL REGULATIONS, 1942

P. R. & O., 1942

November 24, 1942

Whereas in exercise of the powers conferred on him by the Road Traffic Act, 1930, the Minister of Transport on the 12th day of April, 1941, made The Public Service Vehicles (Equipment and Use) Regulations, 1941 (hereinafter referred to as "the Principal Regulations").

And whereas it is expedient that the provisions of the Principal Regulations should be modified in manner hereinafter appearing.

Now therefore, in exercise of the powers vested in him the Minister of War Transport hereby makes the following Regulations and further certifies under section 2 of the Rules Publication Act, 1893, that on account of urgency such Regulations should come into force forthwith as Provisional Regulations and continue in force until statutory rules shall have been made in accordance with the last mentioned Act.

1. These Regulations may be cited as "The Public Service Vehicles (Equipment and Use) (Amendment) Provisional Regulations, 1942." [633]

2. The Principal Regulations shall have effect as though the proviso to Regulation 5 thereof were omitted, and the following proviso were substituted therefor :—

" Provided that for the purpose of this Regulation neither

(a) standing passengers, nor

(b) the drawing of a trailer used only for the carriage of plant and materials for producing gas for the propulsion of the drawing vehicle and so attached as not to interfere with the opening to its fullest extent of any door of the drawing vehicle

shall be deemed to form an obstruction." [634]

3. The Interpretation Act, 1889, applies for the purpose of the interpretation of these Regulations as it applies for the purpose of the interpretation of an Act of Parliament. [635]

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PUBLIC UTILITY UNDERTAKINGS

See also GAS ; ELECTRICITY SUPPLY.

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ORDERS, CIRCULARS AND MEMORANDA

DIRECTIONS MADE BY THE MINISTER OF WAR TRANSPORT UNDER REGULATION 56 OF THE DEFENCE (GENERAL) REGULATIONS, 1939

S. R. & O., 1942, No. 508

March 20, 1942

The Minister of War Transport (hereinafter called "the Minister") in pursuance of the powers conferred upon him by Regulation 56 of the Defence (General) Regulations, 1939, and of all other powers enabling him in that behalf hereby directs that where a public utility undertaking (not being an undertaking for the supply of electricity) is carried on by a local authority, or by a limited company, or by any other body of persons, nothing in the Minister's Directions dated 1st April, 1941, prohibiting the publication of copies of accounts and other documents relating to that undertaking shall prohibit the supply of copies to the members of that local authority or to the directors of that Company or to the members of that other body as the case may be, provided that any copy so supplied shall be clearly marked with a statement to the effect that the document is confidential and is not to be communicated to any person other than a member of that local authority or body or a director of that Company. [636]

* * * * *

THE GAS AND ELECTRICITY COMPANIES (RELAXATION OF OBLIGATIONS) ORDER, 1942

S. R. & O., 1942, No. 800

April 29, 1942

The Board of Trade, in pursuance of the powers conferred upon them by Regulation 56 of the Defence (General) Regulations, 1939, and of all other powers in that behalf enabling them hereby order as follows :—

1. The obligation imposed upon any public utility undertaking for the supply of gas or electricity, being an undertaking carried on by a company, by virtue of the Companies Clauses Consolidation Act, 1845, or of a special Act as defined by that Act, to hold its ordinary meetings or to balance its books more than once a year shall be relaxed to the extent that the company shall not be required to hold such meetings or to balance its books more than once in each year at such time as the directors may determine. [637]

2. For the purposes of this Order "company" shall mean any company incorporated by, or in pursuance of, any Act of Parliament, or by Royal Charter. [638]

3. This Order may be cited as "The Gas and Electricity Companies (Relaxation of Obligations) Order, 1942." [639]

* * * * *

THE ACCOUNTS GENERAL DIRECTION AND ORDER, 1942

S. R. & O., 1942, No. 2631

December 12, 1942

The Minister of Fuel and Power (in this Direction and Order referred to as "the Minister") in pursuance of Regulation 56 of the Defence (General) Regulations, 1939, hereby directs and orders as follows :—

1. No person shall publish or cause or allow to be published to any person the accounts, or any copy thereof or extract therefrom, of any undertaking for the supply of gas or electricity or any report or other document, or any copy thereof or extract therefrom, relating to the operating of such an undertaking which discloses any information contained in any such accounts. [640]

2.—(1) Nothing in the preceding Article of this Direction and Order shall be deemed to prohibit :—

(a) publication of such accounts, reports or documents, or copies thereof or extracts therefrom, to :—

- (i) any Government Department ;
- (ii) the Electricity Commissioners ;
- (iii) the local authorities within the limits for the supply of gas or, as the case may be, electricity by the undertaking ;
- (iv) the auditors of the accounts of the undertaking ;
- (v) the members of the local authority, in a case in which the undertaking is carried on by a local authority ;
- (vi) the directors of the company, in a case in which the undertaking is carried on by a company ;
- (vii) the Central Electricity Board, in a case in which the undertaking is an undertaking for the supply of electricity ;
- (viii) the members of the Central Electricity Board, in a case in which the undertaking is that of such Board ;
- (ix) the members of a Joint Board or Joint Electricity Authority, in a case in which the undertaking is that of a Joint Board or Joint Electricity Authority ;
- (x) any gas or electricity undertaking giving or receiving a bulk supply to or from, as the case may be, the undertaking by whom such publication is made ;
- (xi) such other persons or class or description of persons as may be authorised in writing in that behalf by the Minister ;
- (xii) such other persons in such cases as may be specified in writing in that behalf by the Minister ; or

(b) inspection of such accounts, reports or documents, or copies thereof or extracts therefrom, at the offices of the undertaking by any person who, but for this Direction and Order, would have been entitled to obtain, receive or inspect such accounts, reports or documents, or to receive information as to the contents thereof, and who shall have given to the undertaking not less than seven days prior notice in writing of his desire to inspect the same.

(2) In a case in which publication is, under the provisions of paragraph (1) of this Article, made to the members of a local authority, to the directors of a Company, to members of the Central Electricity Board or to the members of a Joint Board or Joint Electricity Authority, such publication shall only be made if the accounts, reports or documents are clearly marked with a statement that they are confidential and not to be published to any person other than to another member of the local authority, another director of the company, another member of the Central Electricity Board or another

member of the Joint Board or Joint Electricity Authority, as the case may be. [641]

3. Any obligation imposed by or under any enactment with respect to any undertaking for the supply of gas or electricity to publish or cause or allow to be published to any person or in any manner any accounts, or copies thereof or extracts therefrom, or any report or other document, or copies thereof or extracts therefrom, mentioned in Article 1 of this Direction and Order is hereby relaxed to the extent necessary to enable the provisions of this Direction and Order to be complied with. [642]

4. In this Direction and Order and (unless the contrary intention appears) in every authority given under the provisions of this Direction and Order, unless the context otherwise requires, the expression "undertaking" means a public utility undertaking and the expression "company" means any company, not being a local authority, incorporated by or in pursuance of any Act of Parliament or by Royal Charter. [643]

5.—(1) The Direction and Order given and made by the Board of Trade dated the 29th day of March, 1941, the Order made by the Board of Trade dated the 22nd day of May, 1941, the Direction given by the Board of Trade dated the 4th day of June, 1941, and the Authority given by the Board of Trade on the 28th day of January, 1942, in relation to undertakings for the supply of gas and on the 29th day of January, 1942, in relation to undertakings for the supply of electricity respectively are hereby revoked.

(2) The Directions given by the Minister of Transport dated the 1st day of April, 1941, and the Public Utility Undertaking (Prevention of Publications) Order, 1941, shall cease to have effect in relation to any undertaking for the supply of electricity.

(3) Any authority given in pursuance of the Direction and Order given and made by the Board of Trade dated the 29th day of March, 1941, the Direction given by the Board of Trade dated the 4th day of June, 1941, and the Directions given by the Minister of Transport dated the 1st day of April, 1941, in relation to any undertaking for the supply of electricity, which was in force immediately before the coming into force of this Direction and Order shall be deemed to have been given in pursuance of Article 2 of this Direction and Order and shall have effect accordingly. [644]

6. This General Direction and Order shall come into force on the 1st day of January, 1943, and may be cited as the Accounts General Direction and Order, 1942. [645]

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RAILWAYS, RATING OF

See RATES AND RATING.

RATES AND RATING

CASES :—	PAGE		PAGE
Waterlow & Sons, Ltd. v. Shore-		North Riding of Yorkshire County	
ditch Assessment Committee,		Valuation Committee v. Redcar	
[1942] 1 All E. R. 669	253	and Guisborough Assessment	
Worthing Corpn. v. Southern Rail-		Committee, [1942] 2 All E. R.	
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and Worthing Area Assessment		R. v. West Middlesex Assessment	
Committee, [1942] 2 All E. R.		Committee, <i>Ex p.</i> Southall Rating	
302, C. A.	253	Authority, [1942] 2 All E. R. 280,	
		D. C.	254

CASES

Rates and Rating—Assessment—Air-raid shelter—Reduction of area available for business purposes—Reduction in assessment—Rating and Valuation (Air-Raid Works) Act, 1938 (c. 65), s. 1 (1).

W. & Co. constructed an air-raid shelter on premises belonging to them. This resulted in a reduction in the amount of space available for their business and in the annual rent which a tenant might be expected to pay for the premises. The Rating and Valuation (Air-Raid Works) Act, 1938, s. 1 (1), provides that in ascertaining the value of property for rating purposes "no regard shall be had" to additions or alterations effected for the purpose of affording protection from air raids. Relying upon this section, the assessment committee refused to alter the assessment, but quarter sessions, on appeal, reduced the assessment by an appropriate amount:—

Held: where the alteration in the premises has resulted in making the rateable value less, the above section does not prohibit a reduction in the assessment. In the circumstances, the reduction in the assessment allowed by quarter sessions was right.—*WATERLOW & SONS, LTD. v. SHOREDITCH ASSESSMENT COMMITTEE*, [1942] 2 K. B. 105; [1942] 1 All E. R. 669; 111 L. J. K. B. 484; 167 L. T. 69; 106 J. P. 171; 58 T. L. R. 251; 86 Sol. Jo. 168; 40 L. G. R. 177. [646]

Rates and Rating—Railway—Railway hereditament—Proposal for amendment of list—Railway valuation roll—Rating and Valuation Act, 1925 (c. 90), s. 37—Railways (Valuation for Rating) Act, 1930 (c. 24).

The first respondents were the owners and the second respondents the occupiers of a coal wharf which, on the first railway valuation roll, was included as a railway hereditament. As a result of a decision in the House of Lords, the appellants, the rating authority, anticipated that the coal wharf would not appear in the second valuation roll as a railway hereditament, and, on Feb. 22, 1937, they made a proposal under the Rating and Valuation Act, 1925, s. 37, for the separate assessment of the coal wharf by the assessment committee, on the ground that it was not a railway hereditament. On the second valuation roll, which was completed on Jan. 27, 1939, the wharf did not appear as a railway hereditament. The Railways (Valuation for Rating) Act, 1930, s. 18 (3), provides that the provisions of the Rating and Valuation Act, 1925, with respect to the amendment of current valuation lists shall not apply to an hereditament "for the time being shown in the railway valuation roll as a railway hereditament." The question to be determined was whether "railway valuation roll" in this subsection meant the valuation roll existing at the date of the above proposal for amendment, or the later valuation roll which, taking effect retrospectively, governed the quinquennium during which the proposal was made:—

Held (MACKINNON, L.J., *dissenting*): on the proper construction of the Act of 1930, the phrase meant the railway valuation roll existing at the time when the proposal was made and, since the wharf appeared therein as a railway hereditament, the machinery for amendment of the valuation list under sect. 37 of the 1925 Act was not available. Therefore, the proposal was ineffective.

Decision of UTHWATT, J. ([1942] 1 All E. R. 256) *affirmed*.—*WORTHING CORPN. v. SOUTHERN RAIL. CO., HALL & CO., LTD., AND HORSHAM AND WORTHING AREA ASSESSMENT COMMITTEE*, [1942] Ch. 437; [1942] 2 All E. R. 302; 111 L. J. Ch. 298; 167 L. T. 209; 106 J. P. 271; 58 T. L. R. 396; 86 Sol. Jo. 287; 40 L. G. R. 289, C. A. [647]

Rates and Rating—Assessment—Beneficial occupation—Hereditaments owned by local authority—Used for public benefit—Swimming pool, concert hall and similar activities producing considerable income.

The local authority acquired for the benefit of the public a foreshore and erected thereon and on adjoining lands a swimming pool, indoor baths boating lake and pavilion with two lock-up shops attached, from all of which they made a profit. The local authority proposed that these hereditaments should be omitted from the valuation list on the ground that as they were held for the benefit of the public, the public were the occupiers and the local authority were not in occupation for rating purposes. The local authority further contended that if they were the occupiers they were not in beneficial occupation, and that the hereditaments other than the foreshore were incidental to the purpose for which the foreshore was acquired, namely, for the benefit of the public. The appellants contended that no part of the hereditaments had been dedicated in perpetuity to the public and that the local authority were in beneficial occupation :—

Held : although it provided recreation for the public, the enterprise was carried on by the local authority as a place of entertainment. The public had not the unrestricted use of the hereditaments as a whole and the local authority were in beneficial occupation, and were, accordingly, in rateable occupation of the foreshore and hereditaments.—NORTH RIDING OF YORKSHIRE COUNTY VALUATION COMMITTEE *v.* REDCAR AND GUISBOROUGH ASSESSMENT COMMITTEE, [1943] 1 K. B. 114; [1942] 2 All E. R. 589; 59 T. L. R. 38. [648]

Rates and Rating—Valuation list—Amendment—Amendment by assessment committee of its own motion—Union Assessment Committee Act, 1862 (c. 103), s. 26—Rating and Valuation Act, 1925 (c. 90), s. 30.

Certain hereditaments in the Southall rating area were part of a ring trunk main of a large electric supply company. They had been assessed at what was thought to be an agreed figure from 1934–1938. In 1938 the correct method of apportioning the valuation of this trunk main was decided by the King's Bench Division and an appeal was compromised. As a result, the rateable value of the hereditaments in the Southall rating area was apportioned at £9,724. The Southall rating authority being dissatisfied with this figure appealed to quarter sessions and the annual value was increased to £14,966. It was felt that this made the apportionment agreed upon inequitable and the county valuation committee and the assessment committee desired to reopen the assessments from the preceding years back to 1934. It was contended that under the Rating and Valuation Act, 1925, they had no power to do so :—

Held : the assessment committee had no power to reopen these assessments as no proposals for their amendment by persons aggrieved had been made under the Act.—R. *v.* WEST MIDDLESEX ASSESSMENT COMMITTEE, *Ex p.* SOUTHALL RATING AUTHORITY, [1942] 2 K. B. 99; [1942] 2 All E. R. 280; 111 L. J. K. B. 543; 167 L. T. 239; 106 J. P. 224; 58 T. L. R. 295; 86 Sol. Jo. 210; 40 L. G. R. 173, D. C. [649]

REGISTRATION OF BIRTHS, DEATHS AND MARRIAGES

See BURIAL AND CREMATION.

REGULATED INDUSTRIES, TRADES AND BUSINESSES

ORDERS, CIRCULARS AND MEMORANDA :—

Order of the Secretary of State (No. 11B) relating to the Carriage of Explosives — PAGE 255

ORDERS, CIRCULARS AND MEMORANDA

ORDER OF THE SECRETARY OF STATE (NO. 11B) RELATING TO THE CONVEYANCE OF EXPLOSIVES

S. R. & O., 1942, No. 1382

July 13, 1942

In pursuance of the powers conferred on me by sections 37 and 39 of the Explosives Act, 1875, I hereby make the following Order :—

The byelaws made on the 20th September, 1924, under the said provisions of the said Act and known as Order of the Secretary of State (No. 11) shall take effect as if for byelaw No. 1 there were substituted the following byelaw:—

1. Explosive shall not be conveyed in a carriage or boat whilst carrying or plying for public passengers, unless the quantity be less than 5 lbs., and all due precautions be taken for the prevention of accidents by fire or explosion ; provided that there shall not be conveyed in any such carriage or boat any explosive of the 5th (Fulminate) class, or any explosive of the 3rd division of the 6th (Ammunition) class, or any explosive of the 1st division of the 7th (Firework) class, and provided also that the foregoing limitation on the quantity of explosive conveyed shall not apply where the only explosive conveyed consists of samples of Picric acid, Tetra-nitro-methyl-aniline, Amatol, Tri-nitro-toluol, Pentolite and authorised Smoke Compositions conveyed by the Chief Chemical Inspector of the Ministry of Supply, or other person duly authorised by him, but the quantity so conveyed shall not exceed 20 lbs. [650]

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RESERVOIR

See WATER SUPPLY.

ROAD TRAFFIC

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ORDERS, CIRCULARS AND MEMORANDA

ORDER IN COUNCIL . . . ADDING REGULATION 37A TO THE DEFENCE (GENERAL) REGULATIONS, 1939

S. R. & O., 1942, No. 92

January 22, 1942

* * * * *

6. After Regulation thirty-seven of the principal Regulations there shall be inserted the following Regulation :—

“37A. During the continuance in force of this Regulation, section thirty-six of the Road Traffic Act, 1934 (which provides that certain traffic signs shall be presumed to comply with statutory requirements unless the contrary is proved), shall apply to all traffic signs and accordingly shall have effect as if the words ‘(being a sign for regulating by means of light signals the movement of traffic)’ were omitted therefrom.” [651]

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THE MOTOR VEHICLES (AUTHORISATION OF SPECIAL TYPES) ORDER, 1942

S. R. & O., 1942, No. 203

January 27, 1942.

Whereas by Section 3 of the Road Traffic Act, 1930, the Minister of Transport may by Order authorise, subject to such restrictions and conditions as may be specified in the Order, the use on roads of special motor vehicles or trailers or special types of motor vehicles or trailers which are constructed either for special purposes or for tests or trials.

And whereas by the Ministers of the Crown (Minister of War Transport) Order, 1941, all functions exercisable by the Minister of Transport have been transferred to the Minister of War Transport (hereinafter referred to as “the Minister”).

Now, therefore, the Minister in exercise of the powers so conferred upon him and of all other powers thereto him enabling hereby orders as follows :—

1. This Order may be cited as “The Motor Vehicles (Authorisation of Special Types) Order, 1942”. [652]

2. The Minister authorises the use on roads of the vehicle, the index mark and registration number of which are CN 6100, which have been assigned by the County Borough of Gateshead in accordance with the provisions of Regulation 14 of the Road Vehicles (Registration and Licensing) Regulations, 1941, notwithstanding that it does not comply with the requirements of Regulation 6 of the Motor Vehicles (Construction and Use) Regulations, 1941. [653]

3. The Interpretation Act, 1889, applies for the purpose of the interpretation of this Order as it applies for the purpose of the interpretation of an Act of Parliament. [654]

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THE MOTOR VEHICLES (AUTHORISATION OF SPECIAL TYPES) ORDER (NO. 2), 1942

S. R. & O., 1942, No. 469

March 11, 1942

Whereas by Section 3 of the Road Traffic Act, 1930, the Minister of Transport may by Order authorise, subject to such restrictions and conditions as may be specified in the Order, the use on roads of special motor vehicles or trailers or special types of motor vehicles or trailers which are constructed either for special purposes or for tests or trials.

And whereas by the Ministers of the Crown (Minister of War Transport) Order, 1941, all functions exercisable by the Minister of Transport have been transferred to the Minister of War Transport (hereinafter referred to as “the Minister”).

Now, therefore, the Minister in exercise of the powers so conferred upon him and of all other powers thereto him enabling hereby orders as follows :—

1. This Order may be cited as “The Motor Vehicles (Authorisation of Special Types) Order (No. 2), 1942.” [655]

2. The Minister authorises the use on roads of the vehicles the index marks and registration numbers of which are HHT 459 and HHT 460 and which have been assigned by the County Borough of Bristol in accordance with the provisions of Regulations 14 of the Road Vehicles (Registration and Licensing) Regulations, 1941, notwithstanding that such vehicles do not comply with the requirements of Regulation 6 of the Motor Vehicles (Construction and Use) Regulations, 1941.

The Interpretation Act, 1889, applies for the purpose of the interpretation of this Order as it applies for the purpose of the interpretation of an Act of Parliament. [656]

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THE MOTOR VEHICLES (AUTHORISATION OF SPECIAL TYPES) ORDER (NO. 3), 1942

S. R. & O., 1942, No. 939

May 19, 1942

Whereas by Section 3 of the Road Traffic Act, 1930, the Minister of Transport may by Order authorise, subject to such restrictions and conditions as may be specified in the Order, the use on roads of special motor vehicles or trailers or special types of motor vehicles or trailers which are constructed either for special purposes or for tests or trials.

And whereas by the Ministers of the Crown (Minister of War Transport) Order, 1941, all functions exercisable by the Minister of Transport have been transferred to the Minister of War Transport (hereinafter referred to as "the Minister").

Now, therefore, the Minister in exercise of the powers so conferred upon him and of all other powers thereto him enabling hereby orders as follows:—

1. This Order may be cited as "The Motor Vehicles (Authorisation of Special Types) Order (No. 3), 1942." [657]

2. The Minister authorises the use on roads of the vehicles the index marks and registration numbers of which are FVO762 and FVO763 which have been assigned by the County Council of Nottingham in accordance with the provisions of Regulation 14 of the Road Vehicles (Registration and Licensing) Regulations, 1941, notwithstanding that such vehicles do not comply with the requirements of Regulations 6 and 49 of the Motor Vehicles (Construction and Use) Regulations, 1941.

The Interpretation Act, 1889, applies for the purpose of the interpretation of this Order as it applies for the purpose of the interpretation of an Act of Parliament. [658]

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THE MOTOR VEHICLES (AUTHORISATION OF SPECIAL TYPES) ORDER (NO. 4), 1942

S. R. & O., 1942, No. 1067

June 3, 1942

Whereas by Section 3 of the Road Traffic Act, 1930, the Minister of Transport may by Order authorise, subject to such restrictions and conditions as may be specified in the Order, the use on roads of special motor vehicles or trailers or special types of motor vehicles or trailers which are constructed either for special purposes or for tests or trials.

And whereas by the Ministers of the Crown (Minister of War Transport) Order, 1941, all functions exercisable by the Minister of Transport have been transferred to the Minister of War Transport (hereinafter referred to as "the Minister").

Now, therefore, the Minister in exercise of the powers so conferred upon him and of all other powers thereto him enabling hereby orders as follows:—

1. This Order may be cited as "The Motor Vehicles (Authorisation of Special Types) Order (No. 4), 1942." [659]

2. The Minister authorises the use on roads of the vehicles the index marks and registration numbers of which are GKA 287 and GKA 288 which have been assigned by the County Council of the County Borough of Liverpool

in accordance with the provisions of Regulation 14 of the Road Vehicles (Registration and Licensing) Regulations, 1941, notwithstanding that such vehicles do not comply with the requirements of Regulations 6 and 49 of the Motor Vehicles (Construction and Use) Regulations, 1941.

The Interpretation Act, 1889, applies for the purpose of the interpretation of this Order as it applies for the purpose of the interpretation of an Act of Parliament. [660]

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THE MOTOR VEHICLES (AUTHORISATION OF SPECIAL TYPES) (NO. 5) ORDER, 1942

S. R. & O., 1942, No. 2150

October 14, 1942

Whereas by virtue of the Ministers of the Crown (Minister of War Transport) Order, 1941, and section 3 of the Road Traffic Act, 1930, the Minister of War Transport (hereinafter called "the Minister") may by Order authorise, subject to such restrictions and conditions as may be specified in the Order, the use on roads of special motor vehicles or trailers or special types of motor vehicles or trailers which are constructed either for special purposes or for tests or trials;

Now, therefore, the Minister in exercise of the powers so conferred upon him and of all other powers thereto him enabling hereby makes the following Order:—

1. This Order may be cited as "the Motor Vehicles (Authorisation of Special Types) (No. 5) Order, 1942." [661]

2. The Minister authorises the use on roads of trailers constructed for the conveyance of anti-aircraft equipment, notwithstanding that such trailers do not comply with the requirements of the Motor Vehicles (Construction and Use) Regulations, 1941. [662]

3. Nothing in this Order shall be taken to deprive any highway authority or other person of any right to recover any extraordinary expenses which may be incurred in respect of any such road by reason of such user as aforesaid. [663]

4. The Interpretation Act, 1889, applies for the purpose of the interpretation of this Order as it applies for the purpose of the interpretation of an Act of Parliament. [664]

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THE MOTOR VEHICLES (AUTHORISATION OF SPECIAL TYPES) (AMENDMENT) ORDER, 1942

S. R. & O., 1942, No. 2200

October 16, 1942

Whereas in exercise of his powers under section 3 of the Road Traffic Act, 1930, the Minister of War Transport on the 8th day of July, 1941, made the Motor Vehicles (Authorisation of Special Types) General Order, 1941 (hereinafter referred to as "the Principal Order").

And whereas it is expedient that the provisions of the Principal Order should be modified in manner hereinafter appearing.

Now, therefore, the Minister of War Transport in exercise of the powers vested in him hereby makes the following Order :—

1. This Order may be cited as “The Motor Vehicles (Authorisation of Special Types) (Amendment) Order, 1942.” [665]

2. The Principal Order shall have effect as though paragraph 6 thereof were omitted and the following paragraphs were substituted therefor :—

“6. The Minister authorises the drawing on roads by motor vehicles of aircraft notwithstanding that such aircraft do not comply with the requirements of Regulations 8, 48 and 50 of the Construction and Use Regulations.” [666]

3. The Interpretation Act, 1889, applies for the purpose of the interpretation of this Order as it applies for the purpose of the interpretation of an Act of Parliament. [667]

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THE MOTOR VEHICLES (AUTHORISATION OF SPECIAL TYPES) (AMENDMENT) (NO. 2) ORDER, 1942

S. R. & O., 1942, No. 2326

November 3, 1942

Whereas in exercise of his powers under section 3 of the Road Traffic Act, 1930, the Minister of War Transport on the 8th day of July, 1941, made the Motor Vehicles (Authorisation of Special Types) General Order, 1941 (hereinafter referred to as “the Principal Order”);

And whereas it is expedient that the provisions of the Principal Order should be modified in manner hereinafter appearing.

Now therefore, the Minister of War Transport in exercise of the powers vested in him hereby makes the following Order :—

1. This Order may be cited as “The Motor Vehicles (Authorisation of Special Types) (Amendment) (No. 2) Order, 1942.” [668]

2. The Principal Order shall have effect as though the following proviso were added to sub-paragraph (3) (f) of paragraph 11 thereof :—

“Provided that in the case of gritting machines designed for use, and used, for gritting frosted and ice-bound roads all or any of the tyres may be shod with diagonal cross bars of equal width of not less than 1 inch, extending the full breadth of the tyre and so arranged that the distance between adjacent cross bars is not greater than the width of the cross bars.” [669]

3. The Interpretation Act, 1889, applies for the purpose of the interpretation of this Order as it applies for the purpose of the interpretation of an Act of Parliament. [670]

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THE REGULATION OF TRAFFIC (FORMATION OF QUEUES) ORDER, 1942

S. R. & O., 1942, No. 517

March 16, 1942

The Minister of War Transport, by virtue of his powers under Regulation 70 of the Defence (General) Regulations, 1939, and of all other powers enabling him in that behalf hereby orders as follows :—

1. Where at any stopping-place (including a stand or terminus) on a tramcar, trolley-vehicle or public service vehicle route on any highway provision is made, by means of a barrier rail, or of two parallel barrier rails, for the formation of a queue or line of persons waiting to enter the vehicle such persons shall form and keep the queue or line in manner following that is to say :—

The queue or line shall commence against the end of the barrier rail or parallel barrier rails nearest to the stopping place of the vehicle and facing the said stopping place and shall continue alongside the barrier rail, or (in the case of parallel barrier rails) between the barrier rails. [671]

2. Where no barrier rail is provided, any six or more persons so waiting as aforesaid shall form and keep a queue or line of not more than two abreast on the footway. [672]

3. A person shall not take or endeavour to take any position in a queue or line formed in accordance with the provisions of paragraph 1 or paragraph 2 of this Order otherwise than behind the persons already forming the same, or enter or endeavour to enter the vehicle before any other person desiring to enter the same vehicle who stood in front of him in such queue or line. [673]

4. This Order shall come into force on the 12th day of April, 1942, and may be cited as "The Regulation of Traffic (Formation of Queues) Order, 1942." [674]

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THE REGULATION OF TRAFFIC (FORMATION OF QUEUES) (NO. 2) ORDER, 1942

S. R. & O., 1942, No. 1691

August 17, 1942

The Minister of War Transport, by virtue of his powers under Regulation 70 of the Defence (General) Regulations, 1939, and of all other powers enabling him in that behalf hereby orders as follows :—

1. The Regulations of Traffic (Formation of Queues) Order, 1942, is hereby revoked. [675]

2. Where at any stopping-place (including a stand or terminus) on a tramcar, trolley-vehicle or public service vehicle route on any highway provision is made, by means of a barrier rail, or of two parallel barrier rails, or of markings on the highway, for the formation of a queue or line of persons waiting to enter a vehicle such persons shall form and keep a queue or line in manner following, that is to say :—

The queue or line shall commence against the end of the barrier rail or parallel barrier rails or markings nearest to the stopping place of the vehicle and facing the said stopping place and shall continue alongside the barrier rail or between the barrier rails or in conformity with the markings as the case may be. [676]

3. Where no barrier rail or marking is provided, any six or more persons so waiting as aforesaid shall form and keep a queue or line of not more than two abreast on the footway. [677]

4. Subject to any directions given or provisions made or approved by a Regional Transport Commissioner or by a Deputy Regional Transport Commissioner for giving priority to any class or classes of passenger, no person shall take or endeavour to take any position in a queue or line formed

in accordance with the provisions of paragraph 2 or paragraph 3 of this Order otherwise than behind the persons already forming the same, or enter or endeavour to enter a vehicle before any other person desiring to enter that vehicle who stood in front of him in such queue or line. [678]

5. A person shall not enter or endeavour to enter a vehicle when it is at or is approaching and about to stop at a stopping place before any other person desiring to enter that vehicle who was waiting in a queue or line at that stopping place. [679]

6. If so requested by the driver or conductor every passenger shall forthwith leave the vehicle when it reaches the terminal point of the route. [680]

7. This Order shall come into force on the 6th day of September, 1942, and may be cited as "The Regulation of Traffic (Formation of Queues) (No. 2) Order, 1942." [681]

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THE ROAD VEHICLES (PEDESTRIAN CROSSING PLACES) (NO. 2) ORDER, 1942

S. R. & O., 1942, No. 854

May 5, 1942

In virtue of his powers under Regulation 70 of the Defence (General) Regulations, 1939, and of all other powers enabling him in that behalf the Minister of War Transport hereby orders as follows :—

1. The driver of every vehicle at or approaching two lines of studs placed on the carriageway in accordance with the provisions of Regulation 3 of the Traffic Signs (Pedestrian Crossings) (No. 2) Provisional Regulations, 1934, as subsequently amended, shall comply with the requirements of the London Traffic (Pedestrian Crossing Places) (No. 2) Provisional Regulations, 1934, or the Pedestrian Crossing Places (Traffic) Regulations, 1941, as the case may be as though those lines were traffic signs duly prescribed for the purpose of those Regulations. [682]

2. This Order shall come into force on the fifth day of May, 1942, and may be cited as "The Road Vehicles Pedestrian Crossing Places) (No. 2) Order, 1942." [683]

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THE ROAD VEHICLES (TYRES OF LAND TRACTORS) ORDER, 1939 (REVOCATION) ORDER, 1942

S. R. & O., 1942, No. 953

May 15, 1942

The Minister of War Transport by virtue of his powers under Regulation 70 of the Defence (General) Regulations, 1939, and of all other powers enabling him in that behalf hereby orders as follows :—

1. This Order may be cited as "The Road Vehicles (Tyres of Land Tractors) Order, 1939 (Revocation) Order, 1942." [684]

2. The Road Vehicles (Tyres of Land Tractors) Order, 1939, is hereby revoked. [685]

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THE MOTOR VEHICLES (CONSTRUCTION AND USE) (AMENDMENT) PROVISIONAL REGULATIONS, 1942

P. R. & O., 1942

January 14, 1942

Whereas in exercise of the powers conferred on him by Section 30 of the Road Traffic Act, 1930, the Minister of Transport on the 21st day of March, 1941, made the Motor Vehicles (Construction and Use) Regulations, 1941 (hereinafter referred to as "the Principal Regulations").

And whereas it is expedient that the provisions of the Principal Regulations should be modified in manner hereinafter appearing.

Now, therefore, in exercise of the powers vested in him the Minister of War Transport hereby makes the following Regulations and further certifies under Section 2 of the Rules Publication Act, 1893, that on account of urgency such Regulations should come into force forthwith as Provisional Regulations and continue in force until statutory rules shall have been made in accordance with the last mentioned Act.

1. These Regulations may be cited as "The Motor Vehicles (Construction and Use) (Amendment) Provisional Regulations, 1942". [686]

2. Regulation 85 of the Principal Regulations shall have effect as though the following words were added thereto:—

“(viii) in the case of any road roller,”. [687]

3. The Interpretation Act, 1889, applies for the purpose of the interpretation of these Regulations as it applies for the purpose of the interpretation of an Act of Parliament. [688]

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THE MOTOR VEHICLES (CONSTRUCTION AND USE) (AMENDMENT) (NO. 2) PROVISIONAL REGULATIONS, 1942

P. R. & O., 1942

May 15, 1942

Whereas in exercise of the powers conferred on him by Section 30 of the Road Traffic Act, 1930, the Minister of Transport on the 21st day of March, 1941, made the Motor Vehicles (Construction and Use) Regulations, 1941 (hereinafter referred to as "the Principal Regulations"), and those Regulations have been amended.

And whereas it is expedient that the provisions of the Principal Regulations should be further modified in manner hereinafter appearing.

Now, therefore, in exercise of the powers vested in him the Minister of War Transport hereby makes the following Regulations and further certifies under Section 2 of the Rules Publication Act, 1893, that on account of urgency such Regulations should come into force forthwith as Provisional Regulations and continue in force until statutory rules shall have been made in accordance with the last mentioned Act.

1. These Regulations may be cited as "The Motor Vehicles (Construction and Use) (Amendment) (No. 2) Provisional Regulations, 1942". [689]

2. Paragraph (ii) of the proviso to Regulation 31 of the Principal Regulations shall have effect as though the words "the tyre of every driving wheel

is not less than 6 inches in width, and is either " were deleted therefrom and the following words were substituted therefor :—

" the tyre of every driving wheel, in the case of vehicles exceeding 2 tons in weight unladen is not less than 6 inches in width, and in the case of vehicles not exceeding 2 tons in weight unladen is not less than 4 inches in width, and is either ". [690]

3. The Interpretation Act, 1889, applies for the purpose of the interpretation of these Regulations as it applies for the purpose of the interpretation of an Act of Parliament. [691]

* * * *

THE MOTOR VEHICLES (CONSTRUCTION AND USE) (AMENDMENT) (NO. 3) PROVISIONAL REGULATIONS, 1942

P. R. & O., 1942

June 20, 1942

Whereas in exercise of the powers conferred on him by section 30 of the Road Traffic Act, 1930, the Minister of Transport on the 21st day of March, 1941, made the Motor Vehicles (Construction and Use) Regulations, 1941 (hereinafter referred to as " the Principal Regulations "), and those Regulations have been amended.

And whereas it is expedient that the provisions of the Principal Regulations should be further modified in manner hereinafter appearing.

Now, therefore, in exercise of the powers vested in him the Minister of War Transport hereby makes the following Regulations and further certifies under section 2 of the Rules Publication Act, 1893, that on account of urgency such Regulations should come into force forthwith as Provisional Regulations and continue in force until statutory rules shall have been made in accordance with the last mentioned Act.

1. These Regulations may be cited as " The Motor Vehicles (Construction and Use) (Amendment) (No. 3) Provisional Regulations, 1942." [692]

2. The Motor Vehicles (Construction and Use) (Amendment) (No. 2) Provisional Regulations, 1942, are hereby revoked. [693]

3. Paragraph (ii) of the proviso to Regulation 31 of the Principal Regulations as amended by the Regulations hereby revoked shall have effect as though the words :—

" the tyre of every driving wheel, in the case of vehicles exceeding 2 tons in weight unladen is not less than 6 inches in width, and in the case of vehicles not exceeding 2 tons in weight unladen is not less than 4 inches in width, and is either "

were deleted therefrom, and the following words were substituted therefor :—

" the tyre of every driving wheel, in the case of vehicles exceeding 3 tons in weight unladen is not less than 6 inches in width, and in the case of vehicles not exceeding 3 tons in weight unladen is not less than 3 inches in width, and is either ". [694]

4. The Interpretation Act, 1889, applies for the purpose of the interpretation of these Regulations as it applies for the purpose of the interpretation of an Act of Parliament. [695]

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**THE MOTOR VEHICLES (CONSTRUCTION AND USE)
(AMENDMENT) (NO. 4) PROVISIONAL REGULATIONS,
1942**

P. R. & O., 1942

June 30, 1942

Whereas in exercise of the powers conferred on him by section 30 of the Road Traffic Act, 1930, the Minister of Transport on the 21st day of March, 1941, made the Motor Vehicles (Construction and Use) Regulations, 1941 (hereinafter referred to as "the Principal Regulations"), and such Regulations have been amended.

And whereas it is expedient that the provisions of the Principal Regulations should be further modified in manner hereinafter appearing.

Now, therefore, in exercise of the powers vested in him the Minister of War Transport hereby makes the following Regulations and further certifies under section 2 of the Rules Publication Act, 1893, that on account of urgency such Regulations should come into force forthwith as Provisional Regulations and continue in force until statutory rules shall have been made in accordance with the last mentioned Act.

1. These Regulations may be cited as "The Motor Vehicles (Construction and Use) (Amendment) (No. 4) Provisional Regulations, 1942." [696]

2. Regulation 50 of the Principal Regulations shall have effect for so long as the Emergency Powers (Defence) Acts, 1939-40, remain in force as though the following sub-paragraph were added to paragraph (2) thereof:—

(iv) any agricultural trailer drawn by a motor tractor if

(a) its laden weight does not exceed 4 tons;

(b) it is the only trailer so drawn; and

(c) it is not drawn at a speed exceeding 10 miles per hour.

[697]

3. The Interpretation Act, 1889, applies for the purpose of the interpretation of these Regulations as it applies for the purpose of the interpretation of an Act of Parliament. [698]

* * * *

**THE MOTOR VEHICLES (CONSTRUCTION AND USE)
(AMENDMENT) (NO. 5) PROVISIONAL REGULATIONS,
1942**

P. R. & O., 1942

October 1, 1942

Whereas in exercise of the powers conferred on him by section 30 of the Road Traffic Act, 1930, the Minister of Transport on the 21st day of March, 1941, made the Motor Vehicles (Construction and Use) Regulations, 1941 (hereinafter referred to as "the Principal Regulations"), and such Regulations have been amended.

And whereas it is expedient that the provisions of the Principal Regulations should be further modified in manner hereinafter appearing.

Now, therefore, in exercise of the powers vested in him the Minister of War Transport hereby makes the following Regulations and further certifies under section 2 of the Rules Publication Act, 1893, that on account of urgency such Regulations should come into force forthwith as Provisional

Regulations and continue in force until statutory rules shall have been made in accordance with the last mentioned Act.

1. These Regulations may be cited as "The Motor Vehicles (Construction and Use) (Amendment) (No. 5) Provisional Regulations, 1942." [699]

2. Regulation 18 of the Principal Regulations shall have effect as though the following words were inserted after the words "purposes" in paragraph (i) of the first proviso thereto.

"or being used for the purposes of the Land Incident Company of the Royal Army Service Corps". [700]

3. The Interpretation Act, 1889, applies for the purpose of the interpretation of these Regulations as it applies for the purpose of the interpretation of an Act of Parliament. [701]

* * * *

THE MOTOR VEHICLES (CONSTRUCTION AND USE) (AMENDMENT) (NO. 6) PROVISIONAL REGULATIONS, 1942

P. R. & O., 1942

October 6, 1942

Whereas in exercise of the powers conferred on him by the Road Traffic Act, 1939,* the Minister of Transport on the 21st March, 1941, made the Motor Vehicles (Construction and Use) Regulations, 1941 (hereinafter referred to as "the Principal Regulations"), and on the 26th March, 1941, made the Motor Vehicles (Construction and Use) (Track Laying Vehicles) Regulations, 1941 (hereinafter referred to as "the Track Laying Regulations"), and such Regulations have been amended.

And whereas it is expedient that the provisions of the Regulations aforesaid should be further modified in manner hereinafter appearing.

Now, therefore, in exercise of the powers aforesaid and of all other powers enabling him in that behalf the Minister of War Transport hereby makes the following Regulations and further certifies under Section 2 of the Rules Publication Act, 1893, that on account of urgency such Regulations should come into force forthwith as Provisional Regulations and continue in force until statutory rules shall have been made in accordance with the last mentioned Act.

* This is evidently a misprint, the reference is to the 1930 Act.

1. These Regulations may be cited as "The Motor Vehicles (Construction and Use) (Amendment) (No. 6) Provisional Regulations, 1942." [702]

2. The Principal Regulations shall have effect as though—

- (1) in Regulation 10 thereof the date "1st January, 1944" were substituted for the date "1st January, 1943", and
- (2) in the proviso to Regulation 12, the first proviso to Regulation 35, the first proviso to Regulation 40, Regulation 52 and Regulation 89 thereof, the date "1st January, 1944" were substituted for the date "1st January, 1943". [703]

3. The Track Laying Regulations shall have effect as though—

- (1) in Regulation 10 thereof the date "1st January, 1944" were substituted for the date "1st January, 1943", and
- (2) in the proviso to Regulation 12, the first proviso to Regulation 30, the first proviso to Regulation 32 and Regulation 38 thereof, the date "1st January, 1944" were substituted for the date "1st January, 1943". [704]

4. The Interpretation Act, 1889, applies for the purpose of the interpretation of these Regulations as it applies for the purpose of the interpretation of an Act of Parliament. [705]

* * * *

THE MOTOR VEHICLES (CONSTRUCTION AND USE) (AMENDMENT) (NO. 7) PROVISIONAL REGULATIONS, 1942

P. R. & O., 1942

October 19, 1942

Whereas in exercise of the powers conferred on him by section 30 of the Road Traffic Act, 1930, the Minister of Transport on the 21st day of March, 1941, made the Motor Vehicles (Construction and Use) Regulations, 1941 (hereinafter referred to as "the Principal Regulations"), and such Regulations have been amended.

And whereas it is expedient that the provisions of the Principal Regulations should be further modified in manner hereinafter appearing.

Now, therefore, in exercise of the powers vested in him the Minister of War Transport hereby makes the following Regulations and further certifies under section 2 of the Rules Publication Act, 1893, that on account of urgency such Regulations should come into force forthwith as Provisional Regulations and continue in force until Statutory Rules shall have been made in accordance with the last mentioned Act.

1. These Regulations may be cited as "The Motor Vehicles (Construction and Use) (Amendment) (No. 7) Provisional Regulations, 1942." [706]

2. Regulation 50 of the Principal Regulations shall have effect as though the following sub-paragraph were added to paragraph (2) thereof:—

“(v) any trailer used only for the carriage of plant and materials for producing gas for the propulsion of the drawing vehicle, if the drawing vehicle is either a goods vehicle weighing not less than 2 tons in weight unladen or a public service vehicle. For the purpose of this sub-paragraph the term “goods vehicle” means a vehicle constructed or adapted for use for the conveyance of goods or burden of any description.”

[707]

3. The Interpretation Act, 1889, applies for the purpose of the interpretation of these Regulations as it applies for the purpose of the interpretation of an Act of Parliament. [708]

* * * *

CASES

Street Traffic—Pedestrian crossing—Accident—Failure of motorist to stop before reaching crossing—Contributory negligence—Whether duty of pedestrian altered by reason of black-out—Pedestrian Crossing Places (Traffic) Provisional Regulations, 1935, reg. 3.

The plaintiff was injured on a pedestrian crossing during the black-out by a motor vehicle. It was contended for the defendant that the decision in *Franklin v. Bristol Tramways Co.*, [1941] 1 All E. R. 188, imposed a duty

on the pedestrian to exercise greater care in the black-out and that, in the circumstances, the defence of contributory negligence was available :—

Held : the law as laid down in *Bailey v. Geddes*, [1938] 1 K. B. 156, was not altered by the imposition of black-out regulations and the motorist was bound to approach a pedestrian crossing at such a speed that he could stop before reaching the crossing if there was a pedestrian upon it.—*SPARKS v. EDWARD ASH, LTD.*, [1942] 2 All E. R. 214 ; 111 L. J. K. B. 587 ; 167 L. T. 64 ; 106 J. P. 239 ; 86 Sol. Jo. 322 ; 58 T. L. R. 324 ; 40 L. G. R. 238. [709]

Emergency Legislation—Lighting restrictions—Pedal cycle—Cycle with two headlamps—Road Transport Lighting Act, 1927 (c. 37), s. 5 (1) (a)—Lighting (Restrictions) Order, 1940 (S. R. & O., 1940, No. 74), para. 31.

A cyclist was riding his machine with two headlamps, one of them only being illuminated when the bicycle was in motion, it being supplied with current from a dynamo. He was summoned by a police officer before a court of summary jurisdiction and charged under the Lighting Restriction Regulations. It is provided by para. 31 of the Lighting (Restrictions) Order, 1940, that a cyclist “(shall) . . . display the head lights required by . . . the Road Transport Lighting Act, 1927.” By sect. 1 of that Act all vehicles are required to carry two head lights. By sect. 5 (1) (a) a cyclist need only carry one. It was contended that this was a concession or indulgence to cyclists of which they might or might not take advantage, but that in strictness the Act required two lights to be carried and that, therefore, there was no contravention of the Lighting (Restrictions) Order :—

Held : on the true construction of the Road Transport Lighting Act, 1927, only one light was required to be shown by a cyclist, and, therefore, there had been a breach of para. 31 (1) of the Lighting (Restrictions) Order, 1940.—*BLACKSHAW v. CHAMBERS*, [1943] 1 K. B. 44 ; [1942] 2 All E. R. 678 ; 168 L. T. 4 ; 106 J. P. 289 ; 59 T. L. R. 74. [710]

Street Traffic—Motor vehicle—“ Person uses or causes or permits to be used on any road ”—Driver of vehicle—Accident due to improper loading—Motor Vehicles (Construction and Use) Regulations, 1937 (S. R. & O., 1937, No. 229), regs. 67 (2), 94.

The respondent was the driver of a lorry which belonged to his employers, and which they had hired to a brewery company. The lorry was in charge of an employee of the brewery who, with the assistance of two fellow-employees, had loaded it. The respondent drove under the instructions of the brewers’ foreman. The latter sat on the back of the lorry, and, as it was being driven round a sharp bend, fell off, taking with him some crates which were part of the vehicle’s cargo. He sustained injuries from which he subsequently died. The respondent was charged with using the lorry with the load improperly secured, contrary to the Motor Vehicles (Construction and Use) Regulations, 1937, reg. 67 (2). It was contended for the respondent that, since he was driving the lorry under the instructions of the brewers’ foreman, it was the foreman, and not the respondent, who was in charge of the vehicle and, therefore, using it within the meaning of reg. 94 :—

Held : the respondent was using the lorry within the meaning of regs. 67 (2), 94.—*GIFFORD v. WHITTAKER*, [1942] 1 K. B. 501 ; [1942] 1 All E. R. 604 ; 111 L. J. K. B. 461 ; 166 L. T. 324 ; 106 J. P. 128 ; 58 T. L. R. 195 ; 86 Sol. Jo. 154 ; 40 L. G. R. 146. [711]

SHOPS

ORDERS, CIRCULARS AND MEMORANDA :—

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ORDERS, CIRCULARS AND MEMORANDA

ORDER IN COUNCIL AMENDING REGULATION . . . 60AC
... OF ... THE DEFENCE (GENERAL) REGULATIONS,
1939*S. R. & O., 1942, No. 2561**December 16, 1942*

* * * *

5. In paragraph (9) of Regulation sixty AC of the principal Regulations, the words " in Great Britain " shall be omitted, and at the end of that Regulation there shall be added the following paragraph :—

" (10) In the application of this Regulation to Northern Ireland—

(a) paragraph (7), except the definitions of ' shop ' and ' week ', shall not apply ;

(b) the reference in proviso (a) to paragraph (3) to exempted business shall be construed as a reference to trade or business of any of the classes mentioned in the Third Schedule to the Shops Act, 1912 ;

(c) any other reference to exempted business or to persons wholly or mainly employed for the purpose of exempted business shall be omitted." [712]

* * * *

SUPERANNUATION

CASES :—

PAGE

R. v. Minister of Health, *Ex p.* Staffordshire Mental Hospitals Board, [1942] 1 All

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CASES

Lunatics—Asylum officer—Superannuation—Disputes to be settled by Minister of Health—Jurisdiction of Minister to determine whether employee " established "—Asylums Officers' Superannuation Act, 1909 (c. 48), ss. 1, 15, 17.

A. was for many years employed by the Staffordshire Mental Hospitals Board. When he left the services of the board he claimed a superannuation allowance under the Asylums Officers' Superannuation Act, 1909. The Act gives the right to superannuation allowances to " established " officers and servants only, and the board rejected A.'s claim on the ground that, for a number of reasons, he did not come within that category. A. obtained an order under sect. 15 of the Act from the Minister of Health determining that he was entitled to a superannuation allowance. The board applied for an order of *certiorari* to quash the order of the Minister on the ground that, as an essential preliminary to the Minister having any jurisdiction under sect. 15 to deal with the matter, it had first to be ascertained that A. was an " established " officer or servant :—

Held : the section showed in the plainest terms that the Minister's jurisdiction arose whenever there was a dispute as to the matter of a super-

annuation allowance between the board and any officer or servant, and it was immaterial whether or not he was an established officer or servant.

Decision of the DIVISIONAL COURT ([1942] 1 All E. R. 81), *affirmed*.—*R. v. MINISTER OF HEALTH, Ex p. STAFFORDSHIRE MENTAL HOSPITALS BOARD*, [1942] 1 All E. R. 551; 106 J. P. 145; 58 T. L. R. 225; 86 Sol. Jo. 267; 40 L. G. R. 117, C. A. [713]

TOWN CLERK

CASES :—

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CASES

Income Tax—Schedule E.—Cessation of office—Deputy town clerk becoming town clerk of another borough—Finance Act, 1927 (c. 10), s. 45 (5).

The respondent was deputy town clerk of Rotherham till Sept., 1939, when he was appointed town clerk of Scarborough. He contended that, as, in his new position, he was carrying on the same work as before, there had been no cessation of office within the meaning of the Finance Act, 1927, s. 45 (5) :—

Held : the taking up of an office under a new employer involves cessation of office within the meaning of the subsection. The fact that the character of the work remains unaltered does not prevent cessation.—*HATHAWAY v. TURNER*, [1942] 1 K. B. 61; [1942] 1 All E. R. 16; 111 L. J. K. B. 68; 166 L. T. 169; 106 J. P. 55; 86 Sol. Jo. 77; 40 L. G. R. 55. [714]

TOWN AND COUNTRY PLANNING

See also HIGHWAYS.

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STATUTES

THE MINISTER OF WORKS ACT, 1942

(5 & 6 Geo. 6, c. 23)

PRELIMINARY NOTE

The Minister of Works Act, 1942, was originally entitled “ the Minister of Works and Planning Act, 1942 ”. The words “ and Planning ” were omitted and other consequential amendments made, as from February 10, 1943, by the Minister of Town and Country Planning Act, 1943, upon the transfer to the new Minister of the planning functions of the Minister of Works and Planning.

The Act now provides for the transfer to a Minister of Works of all functions exercisable by, and all property, rights and liabilities held or incurred by, the Commissioners of Works and the Commissioners of Public Works in Ireland. Such transfer is affected by Order in Council under s. 6 of the Act; no Order relating to these functions has as yet been made. As to the similar Order regarding town planning functions, see the notes to s. 1, *post*.

An Order in Council transferring functions may also, under s. 6 (3) (a), repeal, modify or adapt any enactment. This power was the subject of discussion during the committee stage of the Bill in the House of Commons (see 380 H. of C. Official Report 558 *et seq.*) and by an amendment introduced then, any such Order in Council which repeals, modifies or adapts any enactment is to be laid before Parliament as soon as may be after it is made. S. 1 of the Rules Publication Act, 1893 (18 Statutes 1016), is, however, expressly excluded. For Orders repealing, modifying or adapting enactments, see the notes to s. 6, *post*.

It is also provided that the transfer of powers, rights or liabilities conferred, imposed or held under the Emergency Powers (Defence) Acts, 1939 and 1940 (32 Statutes 930; 33 *ibid.*, 541, 552), is to be effected by Order under those Acts and not under this Act.

The Minister of Works and not more than one Parliamentary Secretary appointed by him may sit in the House of Commons. The Minister is a corporation sole for all purposes.

Until, by virtue of an order under this Act, the office of the first Commissioner of Works ceases to exist, the person appointed to be Minister of Works is, by virtue of that office, to hold office also as first Commissioner of Works. By reason of this provision, s. 6 of the Ministers of the Crown Act, 1937 (30 Statutes 119), relating to duplicate salaries, is applied.

An Act to make provision in connection with the appointment of a Minister of Works and Planning, to provide for the transfer to that Minister of the functions and property of the commissioners of Works, [and] of the functions and property of the Commissioners of Public Works in Ireland, and of functions of the Minister of Health in relation to town and country planning; and for purposes connected with the matters aforesaid. [715] [24th June, 1942.]

The words "and planning" and "and of functions . . . planning" repealed, and the word "and" in square brackets inserted by s. 7 and Schedule of the Minister of Town and Country Planning Act, 1943, as from February 10, 1943.

1. Functions of Minister of Works and Planning.—(1) If His Majesty is pleased to appoint any person to be a Minister of the Crown by the name of Minister of Works *and Planning*, then, subject to and in accordance with the provisions of this Act, there shall be transferred to that Minister—

- (a) all functions exercisable under any enactment by the Commissioners of Works and by the Commissioners of Public Works in Ireland;
- (b) all property rights and liabilities held enjoyed or incurred by the Commissioners of Works and by the Commissioners of Public Works in Ireland; and
- (c) *all functions exercisable by the Minister of Health under the Town and Country Planning Act, 1932, except the functions exercisable by the Minister of Health under section thirty-two of that Act (which relates to the application of sums received by a responsible authority by way of betterment).* [716]

(2) Until, by virtue of an Order in Council under this Act, the office of First Commissioner of His Majesty's Works and Public Buildings ceases to exist, any person appointed to hold office as Minister of Works *and Planning* shall by virtue of that office also hold office as First Commissioner of His Majesty's Works and Public Buildings. [717]

(3) The person for the time being holding the office of Minister of Works *and Planning* is hereinafter referred to as "the Minister". [718]

As to the constitution of the Commissioners of Works, see the Crown Lands Act, 1851 (3 Statutes 280), and the Commissioners of Works Act, 1852 (*ibid.*, 293). The Commissioners of Works exercise the powers and privileges which before 1832 were exercised by the Surveyor General of Works and Public Buildings (see s. 21 of the Crown Lands Act, 1851; 3 Statutes 285), in so far as those powers and privileges are consistent with the Act of 1851 and subsequent legislation. Duties in relation to royal palaces, parks and possessions are divided between the Commissioners of Works and the Commissioners of Crown Lands, but in relation to certain property for the time being managed by the Commissioners of Works the Treasury

may order its transfer to the Commissioners of Crown Lands (see s. 13 of the Crown Lands Act, 1927; 3 Statutes 337); this power of the Treasury does not appear to be affected by this Act. The Commissioners of Works also perform the powers and duties conferred upon them or upon the Commissioners of Woods under various local and other Acts, and there is vested in them the management of certain public buildings (see the list in Halsbury's Laws of England (2nd Edn.), Vol. 6, p. 750). As to the Commissioners of Works, generally, see *op. cit.*, pp. 746-752.

For the Town and Country Planning Act, 1932, see 25 Statutes 470. The provisions of s. 32 concern the responsibility of the Minister of Health for the supervision of local government finance, rather than his planning functions, and are therefore excepted from transfer. The functions under the Act of 1932 were transferred by S. R. & O., 1942, No. 1313, except functions under ss. 32 (above), 52 (compensation of officers), 55 (Surrey County Council). The words in italics were repealed as from February 10, 1943, by s. 7 and Schedule of the Minister of Town and Country Planning Act, 1943. As from that date the functions exercisable by the Minister of Works and Planning by virtue of the Act of 1942, are transferred to the Minister of Town and Country Planning by s. 1 of the Act of 1943 and S. R. & O., 1943, No. 206.

In view of the temporary duplication of offices by sub-s. (2), s. 6 of the Ministers of the Crown Act, 1937 (30 Statutes 119) is applied by s. 3 (2), *post*.

2. Oath of allegiance and official oath.—The Minister shall take the oath of allegiance and the official oath, and the Promissory Oaths Act, 1868, shall have effect as if the name of the Minister were included in the First Part of the Schedule to that Act. [719]

The Promissory Oaths Act, 1868 (3 Statutes 381), specifies the form of the Official Oath and Oath of Allegiance to be taken by each of the officers named in the First Part of the Schedule thereto as soon as maybe after acceptance of office.

3. Officers, remuneration and expenses.—(1) The Minister may employ such secretaries, officers and servants as he may with the consent of the Treasury determine, and there shall be paid out of moneys provided by Parliament to the Minister and to the secretaries, officers and servants appointed by him, such salaries or remuneration as the Treasury may determine. [720]

(2) For the purposes of section six of the Ministers of the Crown Act, 1937 (which makes provision against duplicate salaries) any salary payable under this Act to the Minister and to any person appointed by him to be a Parliamentary Secretary shall be deemed to be a salary payable under that Act. [721]

(3) The expenses of the Minister, to such amount as may be sanctioned by the Treasury, shall be paid out of moneys provided by Parliament. [722]

For s. 6 of the Ministers of the Crown Act, 1937, see 30 Statutes 119. The section provides that if a Minister holds two offices he shall be paid only one salary—that belonging to the more highly paid office. Its provisions are applied by reason of s. 1 (2) of this Act, *ante*.

4. Capacity to sit in House of Commons.—Neither the Minister, nor any parliamentary secretary appointed by the Minister shall, by reason of his office as such, be incapable of being elected as a member of the Commons House of Parliament, or of sitting or voting as such a member:

Provided that [only one such Parliamentary Secretary shall sit as a Member of that House]. [723]

The Succession to the Crown Act, 1707 (3 Statutes 179) makes it illegal for anyone appointed to any office of profit under the Crown created since October 25, 1705, to sit or vote in the House of Commons. This section removes the disqualification so far as the Minister of Works and Planning and his Parliamentary Secretaries are concerned. The proviso originally ensured that not more than one Parliamentary Secretary should sit in the House of Commons while the Minister himself so sits, and at other times not more than two. It has been amended by the substitution of the words in square brackets, as from February 10, 1943, by s. 7 and Schedule of the Minister of Town and Country Planning Act, 1943. Only one Parliamentary Secretary may now sit in the House of Commons.

5. Seal style and acts of Minister.—(1) The Minister shall for all purposes be a corporation sole and shall have an official seal, which shall be authenticated by the signature of the Minister or of a secretary of the Ministry of Works

and *Planning* or any person authorised by the Minister to act in that behalf. [724]

(2) The seal of the Minister shall be officially and judicially noticed, and every document purporting to be an instrument made or issued by the Minister and to be sealed with the seal of the Minister authenticated in the manner provided by this section, or to be signed by a secretary of the Ministry of Works and *Planning* or any person authorised as aforesaid, shall be received in evidence and be deemed to be so made or issued without further proof, unless the contrary is shown. [725]

(3) A certificate signed by the Minister that any instrument purporting to be made or issued by him was so made or issued shall be conclusive evidence of that fact. [726]

(4) The Documentary Evidence Act, 1868, as amended by the Documentary Evidence Act, 1882, shall apply to the Minister as if his name were included in the first column of the Schedule to the first-mentioned Act, and as if he or a secretary of the Ministry of Works and *Planning* or any person authorised by him to act on his behalf were mentioned in the second column of that Schedule, and as if the regulations referred to in that Act included any document issued by the Minister. [727]

(5) No stamp duty shall be chargeable on any instrument made by, to, or with the Minister. [728]

The Documentary Evidence Acts, 1868 and 1882 (8 Statutes 230, 239), facilitate the proof of various official and public documents.

The words in *italics* are repealed as from February 10, 1943, by s. 7 and Schedule of the Ministry of Town and Country Planning Act, 1943.

6. Provisions as to Orders in Council.—(1) The functions, property, rights and liabilities to be transferred to the Minister under this Act shall be so transferred by such Orders in Council as may from time to time be made by His Majesty for transferring to the Minister, as from such dates as may be specified in the Order,—

- (a) any of the powers conferred or duties imposed by or under any enactment on the Commissioners of Works;
- (b) any property rights and liabilities held enjoyed or incurred by the said Commissioners;
- (c) any of the powers conferred or duties imposed by or under any enactment on the Commissioners of Public Works in Ireland;
- (d) any property rights and liabilities held enjoyed or incurred by the said Commissioners of Public Works in Ireland;
- (e) *any of the powers conferred or duties imposed by or under the Town and Country Planning Act, 1932, on the Minister of Health, except the functions exercisable by the Minister of Health under section thirty-two of that Act;*

Provided that any such powers duties property rights or liabilities conferred, imposed, held, enjoyed or incurred under the Emergency Powers (Defence) Acts, 1939 and 1940, shall be transferred to the Minister by Orders in Council made under those Acts. [729]

(2) In relation to any powers duties property rights or liabilities transferable or transferred by Orders in Council under this Act the Commissioners of Works [and] the Commissioners of Public Works in Ireland *and the Minister of Health* are in this section respectively referred to as “the transferors”. [730]

(3) His Majesty may, by Order in Council, make such incidental, consequential and supplemental provisions as appear to His Majesty to be necessary or expedient having regard to any transfer effected under this Act,

and in particular, but without prejudice to the generality of the foregoing provisions, any such Order in Council may—

- (a) repeal, modify or adapt any enactment, order, regulation, scheme, deed, agreement or other instrument relating to the transferors or their functions or property, to such extent as appears to be necessary or expedient as aforesaid ;
- (b) *provide for the transfer to the Minister of any powers conferred or duties imposed on the Minister of Health by or under any enactment other than the Town and Country Planning Act, 1932, to such extent as appears to be necessary or expedient as aforesaid ;*
- (c) provide for the transfer to the Minister of any function exercisable by any of the Commissioners of Works or by any of the Commissioners of Public Works in Ireland ;
- (d) provide for the carrying on and completion by, to, before, or under the authority of the Minister or of any person appointed by him of anything begun by, to, before, or under the authority of the transferors or any person appointed by them before the date when the Order takes effect, and for the substitution of the Minister for the transferors in any contract or legal proceeding made or begun before that date ;
- (e) provide for securing that any order, regulation, direction, approval, appointment, requirement or authorisation made or given by the transferors shall continue in force to the like extent and subject to the like conditions as if it had been duly made or given by the Minister. [731]

(4) As soon as it appears to His Majesty that by reason of the transfer of powers duties property rights and liabilities from the Commissioners of Works it is no longer necessary that the said Commissioners shall continue to exist, His Majesty may by Order in Council provide for the dissolution of the Commissioners, and on the coming into force of any such Order in Council the office of Commissioner of His Majesty's Works and Public Buildings shall cease to exist. [732]

(5) As soon as it appears to His Majesty that by reason of the transfer of powers duties property rights and liabilities from the Commissioners of Public Works in Ireland it is no longer necessary that the said Commissioners shall continue to exist, His Majesty may by Order in Council provide for the dissolution of the Commissioners, and on the coming into force of any such Order in Council the office of Commissioner of Public Works in Ireland shall cease to exist. [733]

(6) A certificate issued by the Minister that any property has been transferred to him by virtue of an Order in Council made under this section shall be conclusive evidence of that fact. [734]

(7) Any Order in Council made under this Act may be varied or revoked by a subsequent Order in Council made by His Majesty. [735]

(8) Any Order in Council under this Act repealing, modifying or adapting any enactment shall be laid before Parliament as soon as may be after it is made :

Provided that no such Order in Council shall be deemed for the purposes of section one of the Rules Publication Act, 1893, to be a statutory rule to which that section applies. [736]

The words in italics were deleted and the word " and " in square brackets inserted as from February 10, 1943, by s. 7 and Schedule of the Ministry of Town and Country Planning Act, 1943.

As to the powers, rights and liabilities of the Commissioners of Works, and the powers and duties under the Town and Country Planning Act, 1932, see notes to s. 1, *ante*.

For the Emergency Powers (Defence) Acts, 1939 and 1940, see 32 Statutes 930 ; 33 *ibid.*, 541, 552.

For Orders in Council transferring functions to the Minister, see notes to s. 1, *ante*.

S. R. & O., 1942, No. 1313, modifies ss. 17 (2), (3), 35 (1), 41 (1), 42, 43 (1), (2) of the Town and Country Planning Act, 1932, in the manner indicated in the Cumulative Supplement. These modifications are not affected by the transfer of town planning functions to the Minister of Town and Country Planning.

The exclusion of s. 1 of the Rules Publication Act, 1893 (18 Statutes 1016), obviates the forty days' notice of intention to make the order, and of the place where the draft thereof may be inspected, which otherwise would be required in view of the provision that Orders in Council repealing, modifying or adapting any enactment are to be laid before Parliament.

7. Short title and extent.—(1) This Act may be cited as the Minister of Works and Planning Act, 1942.

(2) It is hereby declared that this Act extends to Northern Ireland, and this Act shall extend to the Isle of Man. [737]

The words "and Planning" repealed, as from February 10, 1943, by s. 7 and Schedule to the Minister of Town and Country Planning Act, 1943.

ORDERS, CIRCULARS AND MEMORANDA

THE MINISTRY OF WORKS AND PLANNING (TRANSFER OF POWERS) (NO. 1) ORDER, 1942

S. R. & O., 1942, No. 1313

July 1, 1942

His Majesty, in exercise of the powers conferred on Him by the Minister of Works and Planning Act, 1942, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows:—

1. There are hereby transferred to the Minister of Works and Planning (hereinafter called "the Minister") all the powers conferred or duties imposed by or under the Town and Country Planning Act, 1932, on the Minister of Health, except the functions exercisable by the Minister of Health under sections 32, 51 and 55 of that Act. [738]

2. In the construction and for the purposes of any enactment, judgment, decree, order, award, deed, contract, regulation, byelaw, certificate or other document passed or made before the date of this Order any reference to, or which is to be construed as a reference to, the Minister of Health shall, so far only as may be necessary for the purpose or in consequence of the transfer effected by Article one of this Order, be construed as a reference to the Minister. [739]

3. The said transfer shall not affect any order, regulation, rule, appointment, direction, instruction, approval, requirement or authorisation made or given, or other thing done, by the Minister of Health before the date of this Order, and, in relation to the functions transferred, any such matter shall, if in force on that date, continue in force to the like extent and subject to the like provisions as if it had been duly made, given or done by the Minister. [740]

4. Anything commenced before the date of this Order by or under the authority of the Minister of Health may, so far as it relates to any functions transferred by Article one of this Order, be carried on or completed by or under the authority of the Minister. [741]

5. Where at the date of this Order any legal proceeding is pending to which the Minister of Health is a party, and the proceeding has reference to any of the functions transferred by Article one of this Order, the Minister shall be substituted in the proceeding for the Minister of Health, and the proceeding shall not abate by reason of the substitution. [742]

6.—(1) In sub-section (2) of section 17 of the Town and Country Planning Act, 1932, the words “and shall consult with the Commissioners of Works,” and the words “after consultation with the Commissioners of Works,” and, in sub-section (3) of that section, the words “but before giving his decision he shall consult with the Commissioners of Works” shall be omitted.

(2) In sub-section (1) of section 35 of that Act the words “the Minister of Health” shall be inserted after the word “Fisheries”.

(3) In the proviso to sub-section (1) of section 41 of that Act the words “other than the Ministry of Health” shall be omitted.

(4) Section 42 of that Act is hereby repealed.

(5) In sub-section (1) of section 43 of that Act the words from “and the Minister shall” to the end of that sub-section, and in sub-section (2) of that section, the words “after consultation with the Commissioners of Works” shall be omitted. [743]

7.—(1) This Order may be cited as the Ministry of Works and Planning (Transfer of Powers) (No. 1) Order, 1942.

(2) The Interpretation Act, 1889, applies to the interpretation of this Order as it applies to the interpretation of an Act of Parliament. [744]

TRAMWAYS

See ACTIONS BY AND AGAINST LOCAL AUTHORITIES.

TROLLEY VEHICLES

See PUBLIC SERVICE VEHICLES.

TRUNK ROADS

See HIGHWAYS.

WATER SUPPLY

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ORDERS, CIRCULARS AND MEMORANDA

ORDER IN COUNCIL ADDING REGULATION . . . 54AB TO THE DEFENCE (GENERAL) REGULATIONS, 1939

S. R. & O., 1942, No. 502

March 19, 1942

* * * * *

2. After Regulation fifty-four AA of the principal Regulations there shall be inserted the following Regulation :—

"54AB.—(1) With a view to the maintenance of an adequate supply of water in circumstances arising from any actual or apprehended attack by the enemy, any undertakers carrying on an undertaking for the supply of water may secure, either by agreement or by the exercise of such powers as they may be authorised by the Minister of Health to exercise under this Part of these Regulations, the use of the water in any well, river, stream, lake or pond in such circumstances as aforesaid, and the construction of works appearing to the undertakers to be necessary for the purpose of making the water available for use.

(2) This Regulation shall have effect in relation to any undertakers notwithstanding that the sources of supply which they are to use and the works which they are to construct are limited by or by virtue of any Act or other instrument determining their functions, and notwithstanding any other limitation imposed upon them by or by virtue of any such Act or instrument.

(3) Any power exercisable by the Minister of Health under this Part of these Regulations to make or give orders, directions or instructions as to the manner in which any undertaking is carried on, or as to the performance of the functions of a local authority, shall include, in relation to the undertaking of any such undertakers as aforesaid, power to make or give orders, directions and instructions as to the exercise of the powers conferred by paragraph (1) of this Regulation.

(4) This Regulation shall, in its application to Scotland and to Northern Ireland, have effect as if for references to the Minister of Health there were substituted references to the Secretary of State." [745]

* * * * *

THE RESERVOIRS REGULATIONS, 1942

S. R. & O., 1942, No. 230

January 23, 1942

In pursuance of the powers conferred upon us by the Reservoirs (Safety Provisions) Act, 1930, and the Reorganisation of Offices (Scotland) Act, 1939, we hereby make the following Regulations amending the Regulations made under the said Act of 1930 on the 29th December, 1930.

1. The notice of the appointment of an engineer to make an inspection of a reservoir under section 2 of the said Act of 1930 shall henceforth be in the Form D prescribed in the Schedule hereto and not in the Form D prescribed in the Schedule to the said Regulations. [746]

2. The notice required to be published under section 4 (1) of the said Act of 1930 shall henceforth be in the Form G prescribed in the Schedule hereto and not in the Form G prescribed in the Schedule to the said Regulations. [747]

3. These Regulations may be cited as the Reservoirs Regulations, 1942. [748]

* * * * *

SCHEDULE

FORM D

Reservoirs (Safety Provisions) Act, 1930

Notice of appointment of engineer to make statutory inspection.

(a)

hereby give notice that they have appointed (b)

to make an inspection and report, in pursuance of
Section 2 of the above Act, on their reservoir(s) in the
County of (c)

(a) Name and address
of undertakers.

(b) Name and address
of engineer.

(c) Indicate County in
which reservoir(s) is
situated.

FORM G.

Reservoirs (Safety Provisions) Act, 1930

Notice of receipt of Certificate or Report.

(a)

hereby give notice that they have received in respect of
their reservoir(s) in the County of (b)

a { preliminary certificate
certificate as to execution of works
final certificate
report on a statutory inspection } (c)
under the above Act issued by (d)

and dated (e)

(a) Name and address
of undertakers.

(b) Indicate County in
which reservoir(s) is
situated.

(c) Delete whichever
are inapplicable.

(d) Name and address
of engineer.

(e) Insert date of cer-
tificate or report.

and that the said { certificate
report } (c) may be inspected at (f) (f) Address of place
where certificate or
report may be in-
spected. [749]

CASES

*Water Supply—Power to obtain water outside water district of corporation—
Pumping station situated outside water district drawing water from within
district—Whether breach of contract.*

By cl. 4 of an agreement made in 1892 between the plaintiffs' predecessors and the defendant corporation, the latter agreed not to oppose any application by the former to obtain a further supply of water provided "that no such supply or any part thereof is obtained within the water district . . . of the corporation." This agreement was ratified by Parliament in 1893. In 1941 the plaintiffs presented a bill to Parliament to obtain further supplies of water, and it was common ground that two of the pumping stations for such supplies were outside the defendants' water district, although one pumping station was only a few hundred yards outside and the other slightly more. The defendants opposed this bill, and the plaintiffs asked for an injunction to restrain such opposition on the ground that it was in breach of cl. 4 of the above agreement. For the plaintiffs it was contended that,

although the pumping stations were outside the water district, they would draw water which lay under the surface of that district, and accordingly there was a breach of cl. 4 :—

Held : (i) On the true construction of the agreement, the obligation imposed by cl. 4 was not to erect a pumping station within the defendants' water district and had no reference to pumping stations outside that district, even though such pumping stations would draw water from that district.

(ii) Notwithstanding the court had jurisdiction to grant such an injunction, it was not one which had ever been exercised, and this was not a case in which the court ought to interfere by granting an injunction, since the questions of public policy involved were more suitable for determination by Parliament than by the court.

(iii) The ratification of the agreement by Parliament in 1893, which made the contractual obligation also a statutory one, in no way altered the position.—*BILSTON CORPN. v. WOLVERHAMPTON CORPN.*, [1942] Ch. 391 ; [1942] 2 All E. R. 447 ; 111 L. J. Ch. 268 ; 167 L. T. 61 ; 106 J. P. 181 ; 40 L. G. R. 167. [750]

WATERS

ORDERS, CIRCULARS AND MEMORANDA :—

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ORDERS, CIRCULARS AND MEMORANDA

THE TYNE IMPROVEMENT COMMISSION (TEMPORARY PROVISIONS) ORDER, 1942

S. R. & O., 1942, No. 1282

July 1, 1942

Whereas application has been made on behalf of the Tyne Improvement Commission praying that His Majesty may be graciously pleased to make an Order in Council with respect to that Commission under section two of the Chartered and Other Bodies (Temporary Provisions) Act, 1939 :

Now, therefore, His Majesty in exercise of the powers conferred on Him by the said section two, and of all other powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :—

1.—(1) The term of office of the elected commissioners of the Tyne Improvement Commission constituted under the River Tyne Improvement Act, 1850, and reconstituted under the Tyne Improvement Act, 1934 (which last-mentioned Act is hereinafter referred to as the " principal Act "), holding office at the date of this Order shall extend until the expiration of the eighth day of November, nineteen hundred and forty-five, and accordingly—

(a) the triennial election of elected commissioners under the principal Act shall not be held until that year ; and

(b) sections twelve to twenty-seven of the principal Act (which relate to the compilation, revision, printing and publication of lists of electors) shall not have effect as respects the year nineteen hundred and forty-two.

(2) Subsection (2) of section forty-one of the principal Act shall not have effect as respects a vacancy in the office of an elected commissioner existing and known to the secretary at the date of this Order, or first becoming known to him after that date and before the first day of July, nineteen hundred and forty-five, but the vacancy shall be filled by the appointment of a new commissioner having the requisite qualifications by the commissioners elected by the same class of electors as the commissioner whose office is vacant, or, if there are no such commissioners, by all the commissioners then holding office; and a commissioner so appointed shall hold office as an elected commissioner for the period for which the commissioner in whose place he was appointed would have continued in office.

For the purposes of this paragraph a commissioner appointed in the place of a commissioner elected by any class of electors shall himself be deemed to be a commissioner elected by that class.

(3) The provisions of the principal Act relating to the vacation of the office of an elected commissioner before the expiration of his term of office shall apply in relation to the extended term of office of the elected commissioners. [751]

2.—(1) The term of office of the elected auditor of the accounts of the commissioners constituting the said Tyne Improvement Commission holding office at the date of this Order shall extend until the expiration of the eighth day of November, nineteen hundred and forty-five, and accordingly the triennial election of the said auditor shall not be held until that year.

(2) Subsection (2) of section sixty-one of the principal Act shall not have effect as respects a vacancy in the office of elected auditor first becoming known to the secretary before the first day of July, nineteen hundred and forty-five, but the vacancy shall be filled by the appointment of a new auditor having the requisite qualifications by the elected commissioners, or, if there are no such commissioners, by all the commissioners then holding office; and the auditor so appointed shall hold office as elected auditor for the period for which the auditor in whose place he was appointed would have continued in office.

(3) The provisions of the principal Act relating to the vacation of the office of the elected auditor before the expiration of his term of office shall apply in relation to the extended term of office of the elected auditor. [752]

3.—(1) This Order may be cited as the Tyne Improvement Commission (Temporary Provisions) Order, 1942.

(2) In this Order, except where the context otherwise requires, the expressions "elected auditor", "elected commissioner" and "secretary" have the same meanings as in the principal Act.

(3) The Interpretation Act, 1889, shall apply for the purpose of the interpretation of this Order as it applies for the purpose of the interpretation of an Act of Parliament. [753]

WEIGHTS AND MEASURES

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ORDERS, CIRCULARS AND MEMORANDA

THE WEIGHTS AND MEASURES (VERIFICATION AND STAMPING FEES) ORDER, 1942

*S. R. & O., 1942, No. 99**January 22, 1942*

Whereas by virtue of the powers conferred upon Him by Section 9 of the Weights and Measures Act, 1904 (4 Edw. 7, c. 28), His Majesty was pleased by Order in Council dated the 12th day of January, 1905 (S. R. & O., 1905, No. 11) (hereinafter called "the principal Order"), to specify new fees to be paid in respect of the verification and stamping of weights, measures and weighing and measuring instruments in substitution for the fees specified in the First Schedule to the Weights and Measures Act, 1889 (52 & 53 Vict. c. 21):

And whereas the Principal Order has been varied from time to time by divers subsequent Orders in Council made by virtue of the aforesaid powers of His Majesty and the provisions of subsection (2) of Section 3 of the Weights and Measures (Amendment) Act, 1926 (16 & 17 Geo. 5, c. 8):

And whereas the Board of Trade have represented to His Majesty that it would be expedient further to vary the Principal Order and to specify new fees to be paid on the verification and stamping of weighing machines used or intended for use for grading eggs by weight:

Now, therefore, His Majesty, by virtue of the powers vested in Him as aforesaid and of all other powers enabling Him in that behalf, by and with the advice of His Privy Council, is pleased to order, and it is hereby ordered, as follows:—

1. This Order may be cited as the Weights and Measures (Verification and Stamping Fees) Order, 1942, and shall come into force on the 22nd day of January, 1942. [754]

2. The fees specified in the Schedule hereto shall be paid in respect of the verification and stamping of the weighing instruments mentioned in the said Schedule. [755]

3. The fees specified in the Schedule hereto shall likewise be paid in respect of any weighing instrument mentioned in the said Schedule which on verification is found to be incorrect or defective. [756]

SCHEDULE

WEIGHING INSTRUMENTS USED OR INTENDED FOR USE FOR GRADING EGGS BY WEIGHT

1. Each instrument embodying a single weighing unit—
 - (a) When verified and stamped at the Inspector's Office 6d.
 - (b) When verified and stamped at any other place an additional fee of 5s. for each instrument tested shall be payable.
2. Each instrument embodying more than one weighing unit—
 - (a) When verified and stamped at the Inspector's Office—for each weighing unit 6d.
 - (b) When verified and stamped at any other place an additional fee of 5s. for each instrument tested shall be payable.

3. Notwithstanding the foregoing, when more than two instruments are submitted for verification and stamping on the same occasion, at some place other than the Inspector's office, the total amount of additional fees payable in respect of all the instruments so submitted shall not exceed 15s. [757]

THE WEIGHTS AND MEASURES (AMENDMENT NO. 4) REGULATIONS, 1942

S. R. & O., 1942, No. 1278

June 30, 1942

The Board of Trade in exercise of the powers conferred upon them by Section 5 of the Weights and Measures Act, 1904, and of all other powers, if any, in that behalf do hereby make the following regulations, viz. :—

1.—(a) These Regulations may be cited as the Weights and Measures (Amendment No. 4) Regulations, 1942, and shall come into force on the 1st day of August, 1942.

(b) The Interpretation Act, 1889, shall apply to these Regulations as if they were an Act of Parliament. [758]

2. In the construction of these Regulations the following expressions have, unless the context otherwise requires, the meanings herein assigned to them :—

“Egg-grading machine” means any instrument used in trade for the grading of eggs by weight other than instruments designed to determine the actual weight of the load weighed.

“Weighing unit” means any single weighing element which although forming part of the whole machine is complete in itself.

“Correct” means within the limits specified in No. 6 of these Regulations.

“Requirements of these Regulations” includes requirements of the Weights and Measures Acts, 1878 to 1936, and the Weights and Measures Regulations, 1907, in so far as these may be applicable.

“Weights and Measures Acts” means the Weights and Measures Acts, 1878 to 1936.

“Certified pattern” or “pattern certified” means a pattern for which a certificate has been issued by the Board of Trade under Section 6 of the Weights and Measures Act, 1904. [759]

3. Subject to the provisions of No. 10 of these Regulations the Inspector shall satisfy himself before stamping any Egg-grading machine :—

(a) That it is made in accordance with a certified pattern or in accordance with such a pattern modified only as regards such minor details of construction as may have been sanctioned by the Board of Trade.

(b) That it complies with the requirements of these Regulations.

(c) That in any special case it complies with any other requirements which may have been prescribed by the Board of Trade in respect of a certified pattern at the time of its certification under Section 6 of the Weights and Measures Act, 1904. [760]

4. Notwithstanding anything contained in No. 12 of the Weights and Measures Regulations, 1907, and subject to the provisions of Nos. 10 and 11 of these Regulations, the Inspector on inspection

(1) shall obliterate the stamp

(a) on any Egg-grading machine which does not satisfy the test laid down in No. 9 of these Regulations ;

(b) on any Egg-grading machine which is otherwise such that it cannot be stamped or re-stamped under these Regulations ;
and

(2) may obliterate the stamp on any Egg-grading machine to which any alteration or addition has been made or which has been adjusted or repaired in any manner which might affect its accuracy since it was last stamped.

Provided that where an Egg-grading machine does not fully comply with the requirements of these Regulations but the nature or degree of the non-compliance is not in the Inspector's judgment such as to require the immediate obliteration of the stamp, he shall leave with the trader a notice calling on him to have the machine corrected within a stated period not exceeding twenty-eight days and shall obliterate the stamp if the correction has not been made within that period.

The Inspector shall not obliterate the stamp on an Egg-grading machine except on the grounds stated in this Regulation. [761]

5. An Egg-grading machine shall not be stamped if it bears any statement or mark other than the mark of an Inspector of Weights and Measures, which purports to be or might be mistaken for an expression of approval or guarantee of accuracy by any body or person.

Provided always that any Egg-grading machine made in accordance with a certified pattern may be marked with the number of the Notice of Examination issued by the Board of Trade in respect of that pattern preceded by the words "Board of Trade Notice No." or the abbreviation "B.O.T. Notice No."

Provided also that where the Board of Trade have afterwards authorised any minor modification or modifications of such certified pattern the authority for the alteration may also be marked by a mark denoting the date of the Board of Trade letter or authorisation for the minor modification or modifications preceded by the letter "M." [762]

6. Every grading tray fitted to an Egg-grading machine shall be clearly and legibly marked to indicate the weight of the grade. [763]

7. A power operated machine shall be verified and stamped in situ. On verification, re-verification or inspection every Egg-grading machine shall subject as hereinafter provided be tested in the following manner by the use of test poises of a form and material approved by the Board of Trade :—

In the case of single weighing unit machines and machines in which each weighing unit is set to deal with a single grade, the eggs being passed successively from weighing unit to weighing unit, the test poises shall be fed indiscriminately on to the machine until each individual poise has been employed at least ten times :—

In the case of multiple weighing unit machines in which each weighing unit completes the grading of any egg, the poises shall be employed one at a time and placed in the weighing pans by hand until each individual poise has been placed at least six times on each weighing unit :—

Provided that if eggs of suitable weights are available they may be used for the purpose of such testings instead of test poises.

Counting and stamping devices if fitted shall remain in action during the tests. [764]

8. On verification or re-verification an Egg-grading machine shall be regarded as correct if it satisfies the following conditions :—

- (a) every individual poise or egg used in lieu thereof shall be sorted into its proper grade upon at least 50 per cent. of the occasions on which it is employed by each weighing unit, and
- (b) a poise or egg used in lieu thereof that is not sorted into its proper grade shall not be sorted into a grade other than that to which its weight is most closely adjacent ;

provided that where any weighing unit fails to satisfy this condition on a single occasion, the test on that unit may be repeated using all the poises or eggs used in lieu thereof and if no such error recurs the instrument may be stamped.

- (c) Counting and stamping devices shall function satisfactorily. [765]

9. On inspection, Egg-grading machines shall satisfy the following conditions :—

(a) Counting and stamping devices shall function satisfactorily.

(b) *Single Weighing unit machines.*

The total number of incorrect sortings shall not exceed three.

(c) *Machines in which each weighing unit is set to deal with a single grade.*

The number of incorrect sortings shall not exceed one per weighing unit.

(d) *Multiple weighing unit machines.*

The number of incorrect sortings shall not exceed 5 per cent. of the total number of sortings made with all the poises or eggs used in lieu thereof provided that not more than two such incorrect sortings may occur in respect of any one weighing unit. [766]

10. Any Egg-grading machine which has been in use for trade prior to the date of these Regulations and is in conformity with the requirements of Nos. 5 and 8 of these Regulations may, unless of a pattern for which the Board of Trade have declined to issue a certificate under Section 6 of the Weights and Measures Act, 1904, be stamped or restamped during the period of five years from the date of these Regulations. [767]

11. On inspection the Inspector shall not, in pursuance of No. 4 of these Regulations, obliterate the stamp on any Egg-grading machine complying with the conditions prescribed in Nos. 5 and 9 of these Regulations during the period of allowance specified in No. 10 of these regulations. [768]

* * * *

THE WEIGHTS AND MEASURES (AMENDMENT NO. 5) REGULATIONS, 1942

S. R. & O., 1942, No. 1886

September 16, 1942

The Board of Trade in exercise of the powers conferred upon them by Section 5 of the Weights and Measures Act, 1904, and of all other powers enabling them in that behalf do hereby make the following regulations, viz. :—

1.—(a) These Regulations may be cited as the Weights and Measures (Amendment No. 5) Regulations, 1942 ;

(b) The Interpretation Act, 1889 (52 & 53 Vict. c. 63) shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. [769]

2. Regulation No. 23 of the Weights and Measures Regulations, 1907, shall be deleted and there shall be substituted therefor the following regulation, viz. :—

“ 23. Where in the special circumstances of any case it appears to the Board of Trade to be impracticable or unnecessary to comply with any requirement of these Regulations, the Board may if they think fit dispense with the observance of such requirement upon such conditions, if any, as they may impose.” [770]

* * * *

WILD BIRDS

See ANIMALS.

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